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Natolin

**“What is mine is mine, what is yours is
negotiable”
-A little guide to negotiations with Somali
pirates for European negotiators-**

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Statutory Declaration

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18 739 words

Abstract

This thesis is concerned with the hostage-taking of European vessels and crews off the Coast of Somalia. Piracy in the Indian Ocean is indeed becoming very expensive for European countries which have to pay ever-higher ransoms as the pirates have now turned into extremely organised hostage takers.

The purpose of this thesis is to explain to what extent and under what conditions Europeans could and should negotiate with these hostage takers off the coast of Somalia. This work presents the different positions towards the payment of ransoms held by concerned Member States of the EU and stresses the need for coordination. This work also intends to give recommendations for the setting up of an EU negotiation team in affairs of piracy. Despite declaring to have a ‘comprehensive approach’ to Somalia which links security with development and which led it to launch the European Naval Force Somalia to counter-piracy, the European Union has neglected negotiations for the release of European hostages held by pirates. It is important to adopt a coherent EU policy concerning the payment of ransoms to pirates, to set up an EU negotiation team and to elaborate specific negotiation strategies.

This thesis analyses who the pirates are and their organisation in order to articulate ideas for a European negotiation team. The process of negotiating a ransom with pirates is explained. It comprises three parts, the contact phase which leads to the formation of a team of European negotiators: they are more often private negotiators than government representatives. The second phase is the bulk of negotiations, where advice to handle a pirate negotiator is given. The final part of this thesis is concerned with the success or failure of negotiations and tries to compare successful strategies to less successful ones.

This work is based on interviews with negotiators involved in the liberation of ships from pirates, with representatives of the navy forces, with diplomats, EU representatives, as well as with sailors involved in securing ships from the pirates.

Somali pirates have created for the first time in the history of naval conflict reliability during negotiations. This thesis proves that the EU *could* negotiate with them, as they are not terrorists. The EU *should* negotiate with them in order to free the hostages against a ransom. Negotiations should only take place if it is too risky for the naval forces to attack the hijacked ship; however, they should not last too long. Indeed, lengthier negotiations have not proven more successful in reducing the amount of the ransom.

Keywords

Pirate

Negotiation

Somalia

Hostage

Ransom

Ship

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List of Abbreviations

BJA	Bundeskriminalamt
CMT	Crisis Management Team
DGSE	Direction Générale de la Sécurité Extérieure
EU	European Union
EUMS	Member States of the European Union
EUNAVOR	European Naval Force Somalia
GIGN	Groupe ment d'Intervention de la Gendarmerie Nationale
GTAM	Ground-to-air missile
HR	Human Resources
NATO	North Atlantic Treaty Organisation
NYPD	New York Police District
IMB	International Maritime Bureau
UK	United Kingdom
UKMTO	United Kingdom Maritime Trade Operations
UNHCR	United Nations High Commissioner for Refugees
USA	United States of America
SHT	Sea Hostage-Takers
<i>VPD</i>	<i>Vessel</i> Protection Detachment
ZOPA	Zone of Potential Agreement

1 Introduction

What has changed since Henry de Montfreid sailed through the Gulf of Aden? Piracy has always been a lucrative activity but nowadays, the pirates of the Indian Ocean have turned into extremely well organised hostage takers. Pirates attack commercial ships and their crew, retaining them while waiting for a ransom.

Pirates? The world calls them ‘pirates’ but the closest Somali translation is ‘ocean robbers’ (‘burcad badeed’). Pirates call themselves ‘badaadinta badah’, ‘saviours of the sea’: the movement started when Somali fishermen decided to react against illegal fishing and toxic dumping in Somali waters. However, time has passed since those fishermen gathered taxes from foreign vessels and their actions have considerably evolved into a highly organised hostage taking business, commonly called ‘piracy’.

The word ‘pirate’ comes from ancient Greek ‘πειράω’ (peiraô) which means ‘to try his luck in the adventure’ and from the Latin *pirata*: ‘the one trying the fortune’¹. Nowadays, the International Maritime Bureau (IMB) defines piracy as “an act of boarding or attempting to board any ship with apparent intent to commit theft or any other crime and with the apparent intent or capability to use force in the furtherance of that act”². This is a very broad definition that serves the legal purposes of the IMB. As Somali pirates now mainly hijack ship, i.e. seize it by force or threat of force and then take hostages, without committing theft, they will be referred to in this thesis as sea hostage-takers (SHT). Hostage-taking is defined by Schmid and Flemming as “seizing a group of persons and holding them, usually in a known location, in involuntary captivity, often as a bargaining tool to secure compliance with demands of adversary”³.

Another problem is the term ‘Somali’: Siad Barres, who ruled the Somali Democratic Republic as president and military dictator from 1969 to 1991, tried to dismantle traditional nomadic structures in Somalia but the country is still ruled by clan networks. Furthermore, Somalia is not a united country and piracy mainly stems from Puntland. Therefore, there is no negotiation as such with Somali pirates but there are negotiations with different groups of hostage takers off the coast of Somalia. To ease the writing of this thesis, they will

¹Chantraine Pierre, « Dictionnaire étymologique de la langue grecque », Éditions Klincksieck, 06.1977.

² Website of the International Chamber of Commerce, URL: <http://www.icc-ccs.org/>.

³A. P Schmid and P. Flemming, «Qualitative and quantitative aspects of kidnapping and hostage negotiations» in G.O Faure and I.W Zartman, *Negotiating with terrorists*, Oxon, Routledge, 2010, p. 51.

nevertheless be called ‘Somali’, to differentiate them from South-east Asian or Guinean pirates. Despite the fact that pirates are also active in the South-east Asian seas and off the coast of Nigeria and Tanzania, I will only consider the Gulf of Aden and the Indian Ocean, as it is the place where the most hijackings are reported and where the most important negotiations took place. Furthermore, naval forces have been deployed there to counter piracy, which has an impact on negotiations.

Piracy is a glamorous subject that fires the imagination. Although in recent years numerous authors published on the naval fight against pirates and on the legal framework for their prosecution, the actual negotiations remained underexposed. In fact, the topic was never subject to either an academic or a media enquiry. This thesis will be the first study to bring to light what negotiating with pirates is all about: a business negotiation.

Therefore, this work is based on interviews with negotiators involved in the liberation of ships from SHT, with representatives of the navy forces, with diplomats, EU representatives, as well as with sailors involved in securing ships from the SHT.

However, my task has been made difficult by three types of problems. First, access to core data is often confidential. Therefore, I either could not access some information or I am not allowed to quote it.

Moreover, many pirate attacks go unreported or are badly reported. This naturally leads to the spread of rumours which represents my second barrier. As for historical pirates such as Barbarossa or Black Beard, Somali SHT make people dream of adventure. It is therefore not uncommon to face contradictory rumours.

Thirdly, having never set foot in Somalia, I can't take position for the two reasons mentioned above.

A final difficulty is not to disclose too much information myself, as if the SHT find out what we know about them, they will adapt their operations. I will oblige myself to describe negotiations in a neutral manner.

But can we really speak of negotiations in the case of SHT? A negotiation is a “bilateral or multilateral communication technique to manage conflicting interests through direct dialogues between representatives of the parties to the dispute or conflict”⁴. This thesis

⁴Alex P. Schmid, "Thesaurus and glossary of early warning and conflict prevention terms", in Sanam B.

will show that, in the case of SHT, it is a crisis negotiation, closer to a business negotiation than to a diplomatic negotiation. How long does this process last? With whom do pirates negotiate? How to negotiate with them?

These are the questions this thesis tries to answer by focusing on negotiations with pirates off the coast of Somalia. No unitary pattern of negotiation will be outlined in this study. However, this work will try to explain to what extent and under what conditions Europeans could and should negotiate with these hostage takers off the coast of Somalia. The aim of this thesis is therefore to find out what stance should Member States of the European Union (MSEU) take in case of hostage taking by SHT and to stress the need for coordination.

The hypothesis of this thesis is that, despite declaring itself to have a “comprehensive approach” to Somalia⁵ which links security with development and which led it to launch the European Naval Force Somalia (EUNAVFOR) to counter-piracy, the European Union (EU) has neglected negotiations for the release of European hostages held by SHT. Therefore, the task is left to national governments but above all to private companies. The fate of those European held hostages is not considered by the EU. This is regrettable for many reasons. First, nationalities on commercial vessels are often mixed and governments have different positions towards negotiating with hostage-takers, which sometimes places European hostages in danger of death.

Secondly, there is no gathering of information about SHT which would allow the eradication of the problem of sea hostage-taking.

It is important to adopt a “common policy to facilitate coherence and unity of effort in operations management in the EU-led crisis”, says an anonymous EU official⁶. Therefore, a coordinated EU response to sea hostage-taking is needed. This thesis intends to enunciate recommendations for the setting up of a EU negotiation team.

Chapter one first sets the context, by explaining who SHT are nowadays. The difference with terrorism will be clearly highlighted in order to clarify the response made by Europeans. A comparison will be made with the reaction of the United States of America (USA) towards piracy.

Anderlini, *Forum on Early Warning and Early Response*, London, FEWER, 2000, p. 55.

⁵European Commission, “EU Engagement in Somalia”, 01.2011.

⁶N. Gros-Verheyde, «Et si un militaire européen est otage....», Bruxelles2, 04.11.2011.

The debate about whether to pay ransom will be considered. Despite the fact that paying ransoms fuels hostage taking, the need to negotiate to free hostages is pressing. This is the reason why a picture of negotiations will be drawn in the body of this thesis before suggesting in the conclusion ways to tackle the roots of hostage taking in Somalia.

The three different phases of the negotiations as delimited by Schmid and Flemming⁷ will be introduced under the next three chapters. The first one is the containment phase during which contact will be made between the SHT and the adverse party, which will choose its own negotiators. It will explain the internal organisation of the pirate group and how negotiators build trust in order to be able to communicate efficiently.

The second phase is the middle phase, which is the period during which negotiations start. The European negotiation team will be described before reporting on some day-to-day negotiations. The means of pressure that each party has on the other will be studied.

The third phase is the end phase where a peaceful or violent solution is found. I will describe the most common ways of ransom payments and the liberation of hostages, which usually take place concomitantly.

In the conclusion, four non-exclusive and interrelated ways to tackle the roots of piracy will be presented: helping the development of Somalia, continuing military operations, stopping the financial flow fuelling piracy and prosecuting SHT. All of these are already in place but a better coordination is needed in order to be more efficient.

⁷*Ibid*, p. 63.

1.1 Context

The first paragraph will shed light on who the pirates are nowadays, by researching if they are either terrorists, criminals or unusual businessmen. Their internal organisation will be described. The second paragraph will compare different national reactions towards piracy. A third paragraph will explain how SHT launch their operations. This descriptive paragraph is just made for the reader to understand the whole situation which leads to negotiations.

1.2 Know your ennemy: the sea hostage-takers

The development of piracy, its economic costs and the ways to tackle this problem have been extensively dealt with by researchers; this is why this thesis won't be concerned with it. It will rather focus on identifying who the SHT are to better understand how to interact with them, as in order to know how to react to a problem, one must identify it.

1.2.1 Piracy: terrorism, organised crime or illegal business?

1.2.1.1 Terrorism?

After 2001, the USA extended their operation Enduring Freedom to the Horn of Africa to combat at the same time terrorism and piracy. Consequently, some authors have linked SHT to terrorists⁸

Hussein Hersi, a want-to-be pirate, described pirates as “suicidal”, thinking “either I capture a ship or I die⁹”. However, does this amount to terrorism? The American Federal Bureau of Investigation (FBI) defines terrorism as 'the unlawful use of force or violence against persons or property to intimidate or coerce a government, the civilian population, or any segment thereof, in furtherance of political or social objectives.'¹⁰ An academic definition considers that “terrorism is an anxiety-inspiring method of repeated violent action, employed by (semi-) clandestine individual, group or state actors, for idiosyncratic, criminal or political reasons, whereby - in contrast to assassination - the direct targets of violence are not the main targets. The immediate human victims of violence are generally chosen randomly (targets of opportunity) or selectively (representative or symbolic targets) from a target population, and serve as message generators. Threat- and violence-based communication processes between terrorist (organization), (imperilled) victims, and main targets are used to manipulate the main target (audience(s)), turning it into a target of terror,

⁸D.R. Burgess, *The world for ransom: piracy is terrorism, terrorism is piracy*, Prometheus Books, 05.2010.

⁹J. Bahadur, *Deadly Waters, Inside the hidden world of Somalia's pirates*, London, Profile Books, 2011, p. 194.

¹⁰Priorities of the FBI, URL: <http://www.fbi.gov/albuquerque/about-us/what-we-investigate/priorities>

a target of demands, or a target of attention, depending on whether intimidation, coercion, or propaganda is primarily sought¹¹”.

Pirates don't use anxiety method: they wait for the ransom but rarely threaten their hostages. Their targets are vessels with an expensive cargo, such as the *Sirius*, or yachts, such as the *Ponant* or the yacht of the British couple, the Chandlers. However, it is true that some groups now attack citizens of countries deemed too robust in capturing pirates, such as India. But this amounts more to retaliation, than to terrorism. SHT deliberately keep Indian citizens in hostage to swap them with pirates held by India, showing solidarity with other pirate groups and trying to make countries even more hesitant to launch rescue raids.¹² SHT don't seek intimidation, coercion or propaganda, they want money. Some authors believe that there is a connection between the SHT and Al-Shabaab, an Islamic group controlling the south part of Somalia. Such a connection would prevent the paying of ransoms, as it is illegal in most Western countries to transfer funds to terrorists. In the United Kingdom (UK) for example, “it is an offence to provide funds which the provider knows or has reasonable cause to suspect may be used for the purpose of terrorism. The definition of terrorism extends to acts outside the UK¹³”.

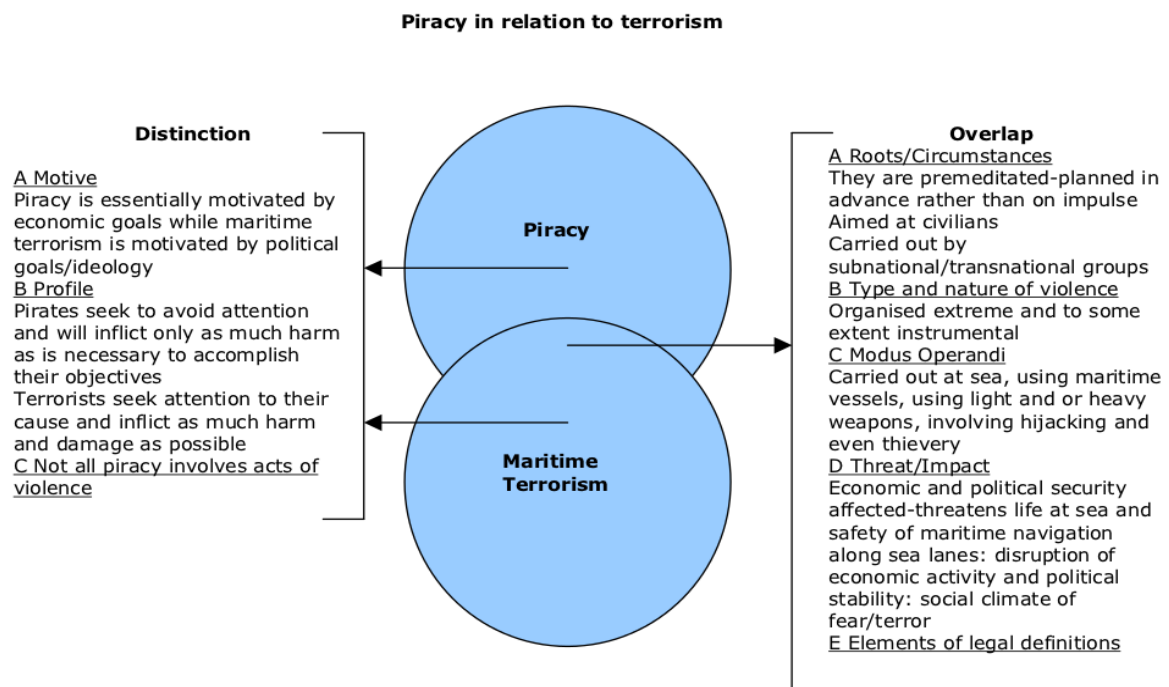


Figure 1 Piracy linked to terrorism

(Ong, 2004)

¹¹A. P. Schmid & A.J. Jongman, *Political terrorism: a new guide to actors, authors, concepts, data bases, theories, and literature*. Amsterdam: North Holland, Transaction Books, 1988.

¹²A. Rawnsley, “Pirates to India: This Time It’s Personal,” *The Wired*, 20.04.2011.

¹³Section 15-18 of the Terrorism Act 2000.

However, it would be a bad decision for SHT to be linked to Al-Shabab, because the latter is considered as a terrorist association linked to Al-Qaeda.¹⁴ Such an affiliation would generate the risk to see an American bomb dropped on their heads.

If pirates are not terrorists, could they be organised criminals?

1.2.1.2 *Organised crime?*

Wally Zeins, former hostage negotiator for the New York Police District (NYPD), declared “fortunately, this is not a terrorist act, this is professional criminals. US don’t negotiate with terrorists, so we can negotiate with this particular situation¹⁵”.

The chief of Interpol alleged that pirates are organised criminals.¹⁶ Paul Nesbitt, the Head of Organized Crime Group in Interpol, defines organised criminality as “any group having a corporate structure whose primary objective is to obtain money through illegal activities, often surviving on fear and corruption¹⁷”.

The UN is more detailed:

The term organized crime usually refers to large-scale and complex criminal activities carried out by tightly or loosely organized associations and aimed at the establishment, supply and exploitation of illegal markets at the expense of society. Such operations are generally carried out with a ruthless disregard of the law, and often involve offences against the person, including threats, intimidation and physical violence.¹⁸

SHT are more or less organised groups with the primary objective to gain money, with no regards to the rule of law. However, it is not aimed at the establishment, supply and exploitation of illegal markets at the expense of society, as SHT mainly spend the money on themselves, as we will see in the fourth chapter.

¹⁴ “Somalia's al-Shabab join al-Qaeda”, BBC, 10.02.2012

¹⁵ “Stakes Raised In Pirate Talks”, CBS, 10.04.2009

¹⁶ «Piraterie. Interpol dénonce 'le crime organisé'», Le Télégramme, 15.10.2009

¹⁷ F. Bresler Talk on organised crime, Interpol, London, 1993.

¹⁸ United Nations, *Eighth United Nations Congress on the Prevention of Crime and the Treatment of Offenders*, Havana, Cuba 27 August to 7 September 1990, A/Conf.144/7, 26.07.1990, p. 5.

According to N. Stracke and M. Bos, most criminal groups tend to distance themselves from political or ideological causes¹⁹. However, SHT often declare that they joined piracy in order to fight against illegal fishing and toxic dumping in Somali waters. Some, such as Abdullahi Abshir say “[the international community] needs to solve the problem of illegal fishing, the root of our troubles. We are waiting for action²⁰”. This could sound like a political cause, however the main goal of SHT seems to secure personal financial profit, with a part of the ransom reinvested in future operations.

Usually, members of organised crimes avoid publicity. SHT seem to be an exception as they talk to international media, bragging about their conquests: Abshir, for example, claims to have seized more than 25 vessels²¹.

1.2.1.3 Business?

J. Bahadur who spent some time in Somalia interviewing SHT considers that “piracy is not so much organized crime as it is a business characterized by extremely efficient capital flows, low start-up costs and few entry barriers²²”. The term 'business' refers to the state of being busy either as an individual or a group in an activity as a means of livelihood or profit.²³ SHT are rather opportunists in one of the most lawless state of the planet. The European naval forces, EUNAVFOR, themselves describe piracy as a “sophisticated criminal business²⁴”.

Some researchers go further and view SHT as “commercial insurgents²⁵”. They use coercive manners to gain as much wealth as possible²⁶. Mary Kaldor even compares the roadblock tactic of conventional insurgent groups to pirate hijacking²⁷.

Nick Wadham, a journalist states that “piracy has become a sophisticated business.

¹⁹N. Stracke and M. Bos, “Piracy: motivations and tactics. The case of Somali piracy”, Gulf Research Center, 2009, p. 15.

²⁰Bahadur, *op.cit.*, p.20.

²¹Bahadur, *op. cit.*, p.13.

²²Bahadur, *op. cit.*, p.38.

²³Personal definition, gathering many definitions from different dictionaries.

²⁴EU NAVFOR, “Surviving Piracy Leaflet for Seafarers”, Press Briefing, Northwood, UK, 20.02.2012

²⁵B. O'Neill, *Insurgency & Terrorism: Inside Modern Revolutionary Warfare*, Brassey's, 2001.

²⁶L. Edward, “Pirates and Insurgency: Reframing the Somali Piracy Problem”, 24.02.2012

²⁷M. Kaldor, *New and old wars: organised violence in a global era*, Stanford University Press, 1st edition, 1999.

Pirates say the operations are now run by a small group of warlords and financiers based around the world. [...] With the rise of the piracy warlords, the trade no longer holds much appeal for the little guy²⁸”.

Therefore, it seems that pirates can now be divided into two main groups: the opportunists and the organised ones. This thesis will focus on the second group. We will adopt the view of SHT as businessmen. They 'sell' hostages, ship and cargo, either one at a time or in a package deal. The buyer is the government or the owner of the vessel. Slaman confirms “when you're negotiating, these ten human lives are simply merchandise²⁹”. We will now describe the internal business model of SHT.

1.2.2 The internal organisation of a SHT group

“Everything that you would need to run a cruise ship line, short of the entertainment, you need to run a piracy operation” says J. Peter Pham from James Madison University in the USA³⁰. A pirate attack costs 15 000 dollars to set up. It takes 15 to 30 minutes but waiting for the ransom can last for months. Therefore, the operation must be extremely well organised from beginning till end. In order to be successful, the SHT operate on a clear division of labor.

²⁸“Somali pirates take the money and run, to Kenya”, NPR, 05.05.2010.

²⁹M. Schenkel, “A Dutch negotiator's 71 days of talking to Somali pirates”, NRC, 07.07.2009.

³⁰C. Joffe-Walt, “Behind The Business Plan Of Pirates Inc.”, NPR, 30.04.2009.

The pirate business model is therefore the following³¹:

Commander in Chief + Management Board (shareholder structure)
--

He recruits attackers and he is responsible for financing operation expenses before and during negotiations. He usually takes a loan to pay the bill and has a 100% interest on it. He imports weapons, corrupts highly placed people and finally launders the ransom money. He never goes on the ship but receives half of the ransom.

SHT

FORCES

Attackers

They carry out the attack. They are often former fishermen with a good knowledge of the sea and/or ex-soldiers who deserted because they were not paid by the government.

Holders

They keep the crew on-board. They can have leave or be replaced by SHT from the shore, usually to chew khat. They are about 20 and have 4 to 7 hours shift, according to different SHT sources.

³¹Those information are gathered from all my readings, please see bibliography.

ADMINISTRATION
<p>Interpreters</p> <p>They have the dual responsibility of communicating with the crew, as well as negotiating the ransom with the ship owner. They are highly in demand and usually work as independent contractors. They can be simple English-speaking Somali from the diaspora, high school students on holidays or unemployed English teachers. Some establish themselves as professional negotiators, 'dilals', who negotiate the highest ransoms.³² In the hijacking of a ship from the Clipper Group, a Danish shipping company, the SHT hired a professional negotiator, Ali, a lawyer who had spent 29 years in the U.S.³³ In the case of the <i>Pompei</i>, Abdi, the negotiator, was a member of the elders council of Harardheere, a pirate haven in Somalia.³⁴ Jack Cloonan, a former FBI agent, explains: "He [the negotiator] has to have the authority to speak to reach a consensus. Until you get a good communicator on behalf of the hijackers you can waste a good amount of time."³⁵</p>
<p>Accountant</p> <p>He is a kind of underwriter, assuring proprietors on goods paid on credit that they eventually will be paid, with a big interest.</p>
<p>Experts</p> <p>There are also technical experts with knowledge on how to operate satellite phones, GPS and military hardware.</p>
MAINTENANCE
<p>Commander of the Khat</p> <p>He is the one responsible for the constant supply of khat on-board. The khat is an amphetamine-like stimulant, sociably chewed for hours in Somalia, mainly in the afternoon.</p>
<p>Cooking staff and his assistant</p> <p>Pirates usually eat their own food, not the one on the ship, because they are afraid of poisoning. Nevertheless, Hans Slaman, a Dutch negotiator, observed that during the hijacking of the <i>Pompei</i>, SHT had been feeding themselves and their hostages with rice from the United Nations High Commissioner for Refugees (UNHCR) which was originally destined for the population of Somalia.³⁶</p>

³²Bahadur, *op.cit.*, p. 60.

³³"Behind the business plan of pirates Inc.", *op. cit.*

³⁴"A Dutch negotiator's 71 days of talking to Somali pirates", *op. cit.*

³⁵D. Hughes, "Delivering Cash to Pirates as Difficult as Negotiating Ransom", ABC News, 20.11.2008.

³⁶"A Dutch negotiator's 71 days of talking to Somali pirates", *op. cit.*

SHT have investors who contract out missions with pirates and receive most of the ransom³⁷. SHT are young males, often between 18 and 25 years old, rarely under 15³⁸, who often suffer from tuberculosis³⁹. Candidates to become a SHT should already possess a firearm.⁴⁰ This is the reason why ex-coast guards turned to piracy when the Government of Puntland stopped paying their salaries⁴¹. On-board, there is a military hierarchy, each member having a title, coupled with corporate professionalism.⁴² A typical group consists of 8 to 12 SHT. This organisation guarantees every participant a well-defined share of the ransom money.

SHT adapt to new responses made by Westerners and they are flexible in negotiations and ransom demands, which they handle as a 'business deal'. They start by asking for large amounts of money and often agree to far less. They handle hostage as 'negotiation capital'⁴³ with no intrinsic value but created for the purpose of bargaining. They usually refrain from harming them or damaging the vessel. The well-being of hostages guarantees them a certain protection from attacks.

SHT seldom set a deadline for ransom payment in order to get the highest amount possible. Nevertheless, sometimes, they even freed hostages even though the total ransom had not been paid. What SHT really want is a status. According to Bahadur, “they don't really know what money is, it is just a way to get you something, mainly a car⁴⁴”.

Despite the fact that some SHT declare “we pirates have no clans, we fight together as Somali⁴⁵”, the country is organised through clan, which define vision of the world as well as social positions⁴⁶.

³⁷This of course changes from group to group.

³⁸“Child soldiers below 15 turn pirates in Somalia”, One India, 17.03.2011.

³⁹Bahadur, *op. cit.*, p.80.

⁴⁰Bahadur, *op. cit.*, p.18.

⁴¹*Ibid.*

⁴²Bahadur, *op. cit.*, p.194 and 196.

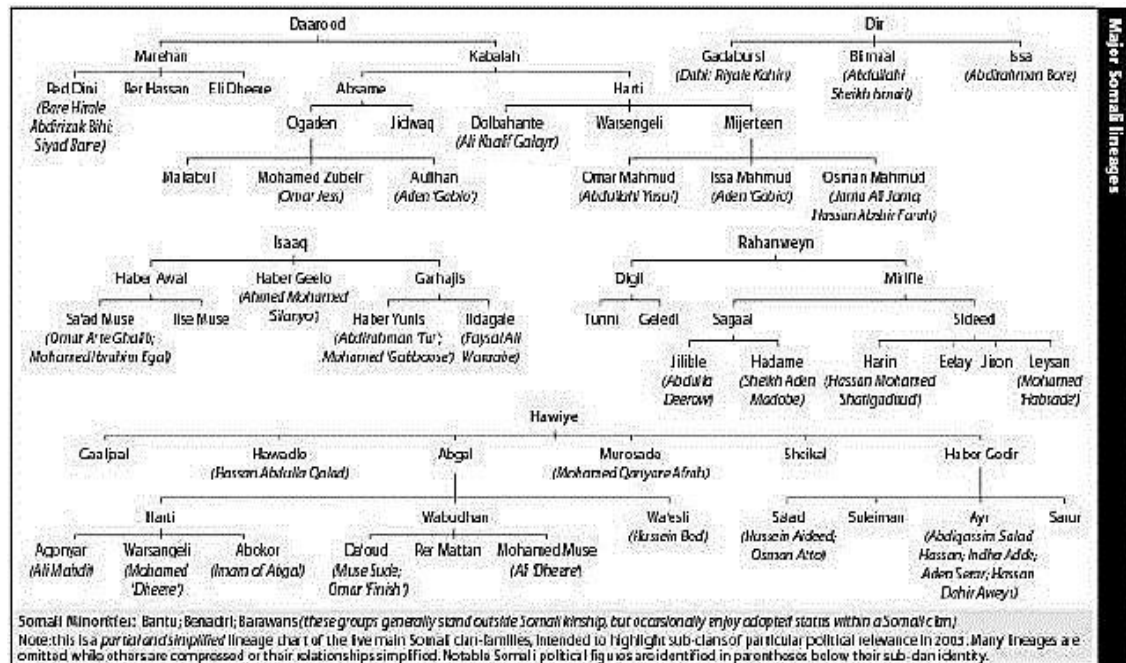
⁴³G.O. Faure, “Negotiating with terrorists, the hostage case”, *International Negotiation*, Vol. 8 No. 3, MartinusNijhoff Publishers, 2003, pp. 469-494.

⁴⁴“Somali Pirates, Business Model”, Bloomberg, 29.07.2011

⁴⁵Bahadur, *op. cit.*, p.105

⁴⁶Bahadur, *op. cit.*, p.27.

It is necessary for the negotiator to understand to which clans he is talking to, because a generalised response to pirates is not possible. Hans Slaman reminds us that 'a good information position about the counter partner really makes the difference'⁴⁷. Information as a power reduces uncertainty and helps to predict what can be achieved.



(www.somalinet.com)

Figure 2: Somali clans

⁴⁷Electronic interview with Hans Slaman, Director of International Security Partners, 05.04.2012.

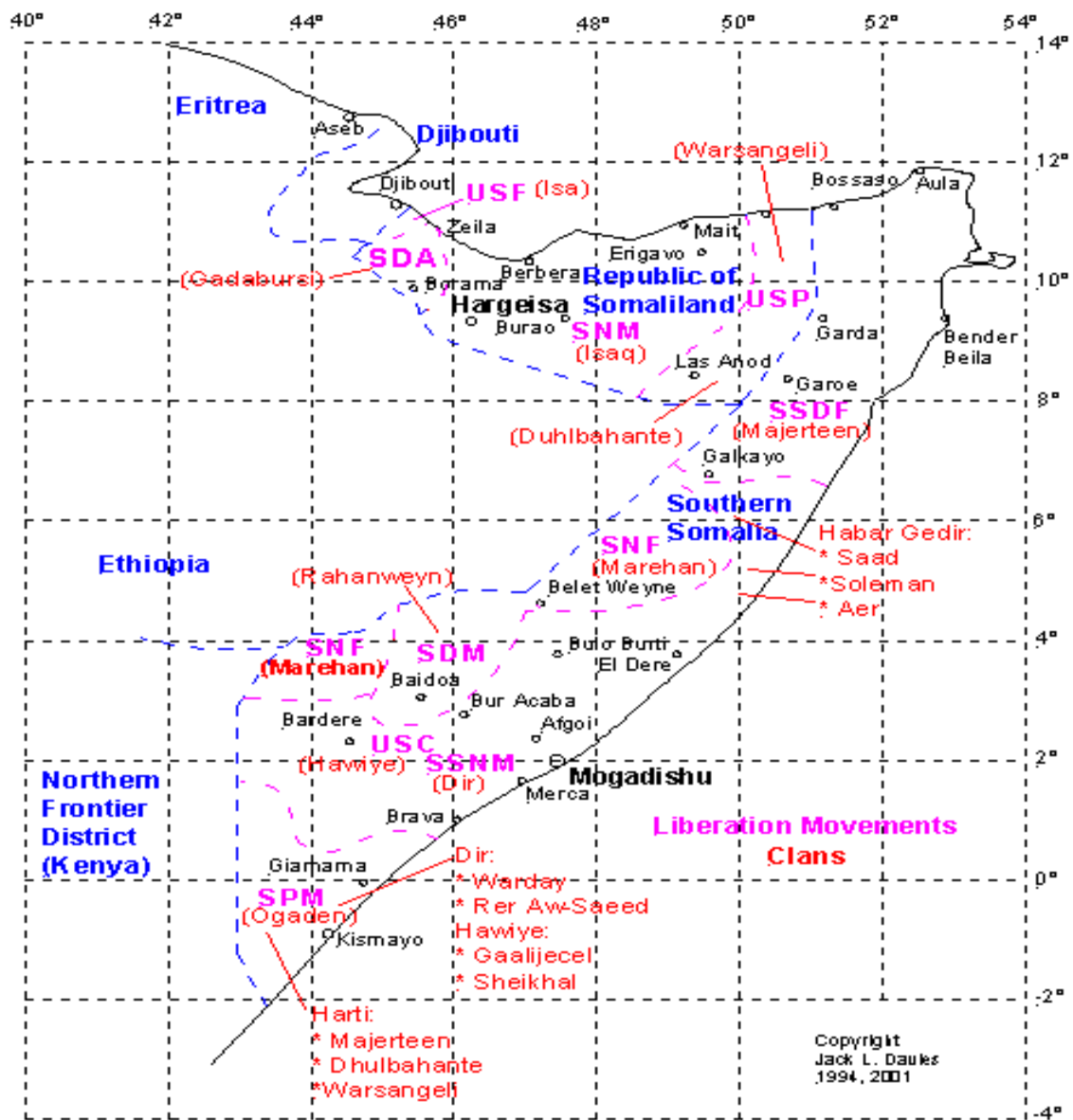


Figure 3: Major Somali clans and their locations

(Daules, 2001)

The crew of the *Ponant*, a French ship attacked in 2008, has been reported as having been taken in hostage by one of the four most powerful local groups, the Somali marines, who launch their operations from Garaad. According to Andrew Mwangura, President of the Seafarers Assistance Programme, based in Kenya, “it is the best organised group. They have a structure and military training, many weapons and boats, a very good communications system, with powerful radios and satellites⁴⁸”.

⁴⁸«Prise d'otages du Ponant: Sarkozy reçoit les familles de l'équipage», AFP, 07.04.2008.

1.3 Reactions toward sea hostage-taking: should we pay ransoms?

Abdul Karis Osman Issa, minister in Puntland, declared that ransom payments, usually denied by ship owners, were causing the situation to deteriorate.

[Pirates] are just running for ransom; giving [it to them] is what made them strong. [Westerners] are giving millions of dollars so this is the problem, created by the international community first⁴⁹."

The majority of European governments deny paying ransoms in a desperate attempt to not attract more SHT. Olivier Hubac declares that "officially, the French government will always deny ever having paid, that it did it or not⁵⁰". But he then adds 'in France, we always seek to negotiate to reach a compromise'. But what could a compromise with SHT amount to if not paying ransoms? Some governments, such as Australia and the UK, officially refuse to pay ransom. "The government will not make substantive concessions for hostage takers, including the payments of ransom," stated the British Foreign and Commonwealth Office⁵¹.

Nevertheless, the High Court of England and Wales held in 2010 that it was "wholly unpersuaded that it would be right to categorise the payment of ransoms as contrary to public policy" and stated that the payment of ransom is not illegal as a matter of English law." Although the Court agreed that the payments of ransom encouraged SHT, it considered that "if the crews of the vessel are to be taken out of harm's way, the only option is to pay the ransom⁵²".

We must make a difference between the nationalities of hostages and between tourists and civil servants. SHT barely attack African vessels, as they know that they have very few chances to receive a payment. "A European is going to fetch you a lot more than a Filipino. No one is going to ransom an African. I'm being brutally frank, but it's true", Pham says⁵³.

In February 2012, the British Prime Minister, David Cameron, declared at the

⁴⁹M. Pflanz, "Somali pirates 'helped by intelligence gathered in London'", The Telegraph, 11.05.2009.

⁵⁰"Otages en Somalie: la force ou la négociation? Le débat", France 24, 29.07.09

⁵¹"Pirates demand \$7 million for yacht couple, Britain says", CNN, 31.10. 2009.

⁵²Masefield AG v Amlin Corporate Member Ltd., [2010] EWHC 280.

⁵³"Behind The Business Plan Of Pirates Inc.", *op. cit.*

London Conference on Somalia that it was time to stop the practise of paying ransoms⁵⁴. A few weeks later, the British hostage Judith Tebbut was released⁵⁵. Faure writes indeed that “states that publicly refuse to negotiate with terrorist groups [hostage takers] actually negotiate much more than they would acknowledge⁵⁶”. The chairmen of the Round Table of International Shipping Associations, affirms that refusal to pay ransom payments would put all hostages in danger. He also adds that insurance premiums would rise, what would “ultimately cause the majority of ships to avoid the region completely thus having an immeasurable impact on food aid and the regional economy, as well as on world trade costs⁵⁷”.

Andrew Shapiro, an American senior official explains “[...] ever-rising ransom payments have not just spurred additional pirate activity but have also enabled pirates to increase their operational capabilities and sophistication.” However, shipping companies warn of the terrible consequences of not paying, both for the hostages and for trade on the high seas. Slaman, when asked if paying the ransom doesn't encourage piracy, answers “seen from a distance? Definitely. But it's a whole different thing if it's your child.”⁵⁸ Therefore, a moral duty exists for governments and ship owners to negotiate with SHT in order to save the hostages.

Paying ransoms is also a way for ship owners to guarantee the safety of their seafarers, their vessels and their cargoes. An American spokesman for Maersk explained that “the safe return of the [hostage] is priority⁵⁹”.

The problem that negotiating with pirates raises is that it could be considered as a formal recognition of their existence as a legitimate counterpart. MSEU should make clear that accepting to negotiate doesn't mean accepting the other side's behaviour. The EU could possibly legislate in order to have one common conception of dealing with SHT, but MSEU may be reticent to lose their margin of manoeuvre.

We will consequently study the negotiation process with SHT in order to enhance the need for a better coordination among MSEU.

⁵⁴N. Hopkins, “Judith Tebbutt case puts spotlight on government's ransom policy”, *The Guardian*, 21.03. 2012

⁵⁵ *Ibid.*

⁵⁶ G-O Faure and W.I Zartman, “Negotiating with terrorists-Who holds whom hostage?”, in G.O Faure and W. I. Zartman, *Negotiating with terrorists*, Oxon, Routledge, 2010, p. 11.

⁵⁷“Judith Tebbutt case puts spotlight on government's ransom policy”, *op. cit.*

⁵⁸“A Dutch negotiator's 71 days of talking to Somali pirates”, *op. cit.*

⁵⁹“FBI Negotiators Enlisted to Help Free Captain”, *Associated Press*, 09.04.2009.

1.4 The sea hostage-taking operations

The situation is a dual phase-incident⁶⁰: it consists of an initial act, the hijacking, a negotiation process and a denouement, usually the payment the ransom. We will start by describing the hijacking.

1.4.1 How do SHT attack?

The pirate season usually starts after the monsoon, at the beginning of September.⁶¹ SHT have no equipment to act by night and they ordinarily attack at sunrise, after nights with no moon⁶². In 2005, the IMB recommended that ships remain at least 200 nautical miles offshore. But since, pirate attacks have been reported up to 450 nautical miles (i.e. 833 km) offshore in the case of the Sirius tanker and the attack zone now covers a surface twice the size of Europe⁶³. Indeed, pirates' techniques evolve in reaction to the military attacks. One major development seems to be that SHT now use whalers, fishing trawlers, or large tonnage ship with means of communication and geolocation such as radars and GPS in order to be able to attack on the high seas. Those “headquarters ships”, commonly called ‘mother ships’, are big enough to transport fuel, food, and fresh water that enables pirates to sail away from the coast for long periods of time. Small speed boats are launched from mother ships to execute the attacks⁶⁴.

The existence of mother ships was disputed⁶⁵ before NATO started to capture a few of them⁶⁶. The neutralisation of mother ships has now become a priority for the new offensive strategy defined by the EU and NATO⁶⁷. However, the average pirate seems to be ill-equipped with little food and fuel to bring him home, which makes it necessary for him to launch a quick attack, not too far from the coast⁶⁸.

⁶⁰Schmid and Flemming, *op. cit.*, p. 50.

⁶¹Ince&Co, “Shipping. Piracy-Responding to a piracy incident”, leaflet.

⁶²*Ibid.*

⁶³J.F. Daguzan, interview in «Le Monde, bilan géostratégique 2011», p. 111.

⁶⁴*Ibid.*

⁶⁵Stracke and Bos, *op. cit.*, p. 29.

⁶⁶N. Gros-Verheyde, «2 bateaux-mères, indien et iranien, neutralisés par les forces de l'OTAN», Bruxelles2, 09.01.2012.

⁶⁷N. Gros-Verheyde, «Et un bateau-mère de moins.», Bruxelles2, 21.04.2012.

⁶⁸Bahadur, *op. cit.*, p. 54.

Some authors reported on the alleged monitoring by pirates of maritime navigation data online in order to determine the exact location of the targeted vessel^{69/70}. However, Bahadur explains that the vessels' exact coordinates are always delayed by a few hours which prevents interception by SHT. Furthermore, due to the important presence of many commercial ships, chasing one vessel would mean losing the opportunity to attack other suitable targets⁷¹. Nevertheless, Gauthier Selva, a counter-piracy consultant, believes that there are people in ports who inform pirates about the kind of ship entering the area⁷².

We will now study the mode of operations of SHT.

1.4.2 The launch of operations

The number of SHT depends on the operation, which are commonly launched from the village of Marero⁷³. SHT on-board of a mother ship can wait on sea for long periods of time before launching their attacks which take about 15 minutes. As the boats which leave the mother ship are small and fast, the radar of the targeted ship is often unable to spot them. Selva explains that it depends of course on the quality of the radar and on the state of the sea; however dhows are almost impossible to spot⁷⁴. Pirates usually board the ship with ropes and flexible ladders, armed with knives, machine guns and RPG, after having warned the crew to stop, sometimes by shooting. Those ladders are the proof of their identity as pirates and are thrown overboard if a military ship approaches. This operation is called “hijacking”, which means “to illegally take control of a vehicle, using violence or threats⁷⁵”.

The first pirate to board the targeted vessel may be entitled to an extra-share of the ransom. They force the ship to halt to let more pirates climb aboard⁷⁶. In some cases, fishermen have reacted violently but nowadays, it is common for the crew to close itself in a secure area. On ships without such a place, SHT first and immediately ask the crew to give them their phones and threaten to kill them if they find phones in the cabins⁷⁷.

⁶⁹*Ibid.*

⁷⁰“Somali pirates 'helped by intelligence gathered in London’”, *op. cit.*

⁷¹Bahadur, *Op. Cit.*, p. 53

⁷²Phone interview with Gauthier Selva, counter piracy consultant at Shield, 17.04.2012.

⁷³Bahadur, *Op. Cit.*, p. 92.

⁷⁴Selva, *op. cit.*

⁷⁵Macmillan dictionary.

⁷⁶Stracke and Bos, *op. cit.*, p. 31.

⁷⁷L. Menget and M.S. Joubert, *La piraterie en Somalie*, France24, 2009.

SHT then bring the ship close to the shore, sometimes in a friendly port, where other pirates board to watch over the hostages. In most cases, hostages are held on-board so that they don't attempt to leave, to make rescue attempts more difficult. It assures that ship, cargo and crew will be released in one single deal, if SHT decide they choose this strategy.

Now, some pirates move their hostages on land⁷⁸, to avoid rescue attempts or to sell the ship if it is a yacht while the ransom negotiations are still going on. When hostages are held in a secret location, hostage-taking turns into kidnapping. While in hostage-taking situations, “each side may be defined as the hostage of the other”⁷⁹ because hostage takers are surrounded by military forces, in the case of kidnapping, the confinement of hostage in secret location gives the hostage takers a bargaining leverage⁸⁰.

It has been discovered that some hostages captured by Al-Shabaab had been sold to the SHT, as the latter had negotiators, while Al-Shabaab was not similarly equipped. For example, two members of Médecins Sans Frontières have been sold to the Alweyne group of Mohamed Abdi Hassan for \$100.000\$ each. SHT have declared that they have no link to Al-Shabaab and that it was just 'business'⁸¹.

In any case, the situation calls for negotiations.

1.4.3 What are we negotiating for?

Usually, ship owners want to get back three assets: the crew, the ship and the cargo. SHT must choose their target with care by asking themselves: “Does it have any value? Who is the crew? Do they have any security on-board? Who owns the ship?” Seizing a ship is a business decision says Pham⁸².

Isemar, the higher institute of maritime economics, explains that taking the crew hostage provides a direct financial reward, not requiring powerful trading networks, unlike the concealment of vessels or their cargoes⁸³. Jack Cloonan, an hostage negotiator from the

⁷⁸J. Bahadur, “Somalia Pirates Adopt Troubling New Tactics”, The Daily Beast, 31.01.2012

⁷⁹Faure and Zartman, *Negotiating with terrorists-who holds whom hostage?*, *op. cit.*.

⁸⁰Schmid and Flemming, *Op. Cit.*

⁸¹N. Gros-Verheyde, «Les pirates ‘achètent’ 2 otages de MSF aux Al-Shabab», 10.01.2012.

⁸²“Behind the business plan of pirates Inc.”, *op. cit.*

⁸³G. Guichard, «Piraterie : comment négocier une rançon», Le Figaro, 17.07.2011.

American Federal Bureau of Investigation (FBI) states “they have an asset and the asset is a [...] US citizen [...]”, which is more important than a vessel.

Nevertheless, SHT carefully choose which ship to hijack. They have a preference for vessels with high financial value such as containers, tankers (especially oil tankers), bulk carriers, general cargo⁸⁴. Those are high risk - high return operations but they are easy to board as they are slow, difficult to manoeuvre and have low upper decks. However, those vessels will be more difficult to hide due to their big size. The value of their load is likely to attract the attention of the international community and to lead to a rescue attempt⁸⁵.

Fishing vessels are still targeted, certainly due to their low speed. They are not attacked for their cargo, but more often are they either sold or converted into mother ships. SHT could use them but pretend to be fishermen when a patrol comes too close. Usually, negotiations are not on those ships because they are small, often not insured and their load is perishable.

Finally, yachts represent a good target as no strong resistance is expected from the crew and owners are often wealthy and ready to pay high ransom. If the owner refuses to pay a ransom, the ship could be sold on the black market. However, NATO officials refuted the idea that SHT sell hijacked vessels on the black market as they would not find any buyer in the region.⁸⁶ In the case of the *Ponant*, a French ship, the SHT didn't expect the navy to react so violently as we will see later.

Now, SHT also take into consideration the electronic defence and protection capability on the vessel. SHT will balance their operational capabilities with the difficulty of the attack and further control, as well as the presence of naval forces or other protection forces around or on the target. It has been reported that most piracy attacks occur when the vessel was in ‘steaming’ status⁸⁷.

If the hijack is successful, the negotiations can then start.

⁸⁴L. Remondus van der Meijden, *The Influence of Modern Piracy on Maritime Commercial Transport*, Novembre 2008, p. 8.

⁸⁵Stracke and Bos, *op. cit.*, p. 34.

⁸⁶Interview with Xavier Larreur, Operations and Navy Deputy to the French National Military at NATO, Mons, Belgium, 24.04.2012

⁸⁷The IMB divides the status of ships that could come under attack from pirates into: berthed, anchored, and steaming.

2 The initial (containment) phase

In this chapter, we will study how negotiations begin. We will understand that there is no coordination among Europeans; consequently we will examine how the European negotiator is chosen and how trust is built between the two parties.

2.1 *The lack of coordinated response*

Once the ship has been captured, SHT try to contact Europeans to start the negotiation process. Unfortunately, there is no coordinated response by ship owners, national governments, or MSEU within the EU.

The only counter piracy organisation of the EU, EUNAVFOR, refuses to be 'instrumentalised'⁸⁸ and therefore to join negotiations. However, it deplores that members of the international community protect their own interests, sometimes paying ransoms, sometimes not. The London Conference on Somalia clearly sent the message of the need for coordination⁸⁹.

The Council of the EU appointed Alexander Rondos on the 8th of December 2011 as EU Special Representative to the Horn of Africa in order to organise EU's action in Somalia, towards the humanitarian crisis, the development needs of the region and the fight against piracy.

However, there is still no common EU action when a European ship is hijacked. This is even more regrettable as often the ship owner comes from one MSEU, the ship is registered in another MSEU, while the crew has the nationality of a third country and the insurance companies are from another MSEU. For example, the *Centaury* was a Greek Maltese-flagged freighter with a crew of 25 Filipinos kidnapped by SHT.

The first phase of negotiations according to Schmid and Flemming is the 'containment phase'⁹⁰. It is the moment where contact is made by the SHT with their European counterpart. The two authors warn that the perpetrators are nervous, anxious,

⁸⁸Interview with an official from EUNAVFOR, Northwood, UK, 26.02.2012.

⁸⁹“Judith Tebbutt case puts spotlight on government's ransom policy”, *op. cit.*

⁹⁰Schmid and Flemming, *op. cit.*, p. 63.

aggressive and alert during this phase.

2.2 *The contact phase*

2.2.1 The choice of a European negotiator

Once the vessel has been moored, SHT have to identify the concerned parties. It could be either:

- the ship owner (a company or a state)
- the shipping company
- the insurance company
- the state where the ship is registered (flag)
- the owner of the cargo
- the state of the nationality of the crew and/or the passengers. However, this is a very difficult task as nationalities are often mixed to a high extent on a commercial ship.

In most cases, pirates identify and contact the owner of the ship. They often call to the company's headquarters after having found the number on-board. We will deal with the different communication systems used by the SHT below.

Once contacted, companies then have three choices: they can either negotiate directly but they rarely do so; they can use governmental agencies, such as Scotland Yard or the Intervention Group of National Gendarmerie (GIGN) as it happened in the hijack of the French yacht, le *Ponant*. Finally, they can hire negotiation specialists, such as maritime solicitors. This kind of negotiation is called 'track II diplomacy': it refers to informal diplomacy in which non-officials negotiate in order to solve a conflict⁹¹. For Richard Clutterbuck, "the choice of the principal negotiator is probably the single most important decision of the crisis management team (CMT)⁹²".

At the beginning of the captivity of the Chandlers, SHT were becoming impatient as the British government claimed that it refuses to pay ransom to hostage takers and therefore, the SHT were not contacted to begin negotiations. Finally, Dahir Abdullahi Kadiye, a London-based Somalian businessman, stepped in to free the couple.

⁹¹Website of Search for Common Ground, URL: http://www.sfcg.org/resources/resources_terms.html

⁹²Clutterbuck, Richard, *Kidnap and Ransom: the Response*, London, Faber, 1978, p.115.

The negotiation structure is divided into two parts in order to prevent the negotiator from developing the Stockholm syndrome: it is a symptom in which a hostage has sympathetic feelings towards his captor and which can be extended to communicators in a negotiation. The negotiator could therefore develop friendly feelings toward the Somali negotiator, what would prevent him from negotiating the lowest ransom for the release of hostages. Therefore, the negotiator is not the decision maker, he only follows instructions, and this is why he is not in the CMT. The only thing he can do is listen and talk. The decision maker is emotionally detached from negotiations. Nevertheless, despite the fact that the negotiator is not independent, he has to keep certain autonomy to be flexible vis-à-vis moody SHT.

2.2.2 The qualities of a good European negotiator

The job of negotiator with SHT seems to be exclusively open to men. It is doubtful whether SHT would accept to negotiate with a woman, as they are Muslim and as Somali women have been excluded from decision-making in daily life as well as in politics⁹³.

Nevertheless, a Somali negotiator told a European negotiator: “The pirates, they do not care about Muslims, they do not care about Christians, they do not care about anything but money. You must understand that. [...] money talks⁹⁴”.

Therefore, whatever the sex of the European negotiator, he or she must be:

-available and flexible: a German negotiator told the SHT that he could only be reached between 9am and 5pm, German time⁹⁵. This made the SHT very violent. Therefore, negotiators should be available at any time. Slaman says “I spoke to Abdi at least once a day, sometimes at the craziest times⁹⁶”.

-reliable: a negotiator should never lie⁹⁷. He has to be loyal to the ship owners but he must

⁹³ Aqli, Mohamoud Mohamed, “Women in Somali society”, Institute of Peace and Conflict Studies, University of Hargeisa, 03.2009.

⁹⁴ Grosjean, Blandine, « Témoignage exclusif : une prise d'otages racontée de l'intérieur », Rue89, 12.06.2011.

⁹⁵ Phone interview with Hans Slaman, Director of international Security Partners, 21.03.2012.

⁹⁶ “A Dutch negotiator's 71 days of talking to Somali pirates”, *op. cit.*

⁹⁷ Combalbert, Laurent, “Guidelines for negotiating with terrorists”, in G.O Faure and I.W Zartman, *Negotiating with terrorists*, Oxon, Routledge, 2010, p. 43.

also gain the confidence of the counterpart.

-non-combative: sometimes, negotiators can be very angry with each other. If the Somali side start shouting at the European negotiator, Slaman recommends to hang up immediately to prove that SHT are the ones with the problem, not the Europeans; they are the one who want to 'sell the ship'. A good negotiator should not be or get emotional.

-intelligent and inventive: he needs to understand quickly the personalities of the SHT and their mutual relations.

2.2.3 The negotiation team

Europeans need a structured negotiating system, with sound psychological principles. A crisis negotiation with SHT is a two level game⁹⁸ : simultaneous negotiations are held both the domestic level, i.e. separately within the SHT group and within the CMT and secondly at the international level, between the SHT and the European negotiator.

The classic organisation of a European negotiating team is as follow:

Decision maker He decides on the plan of action and gives instructions.	
Supervisor coordinator He verifies the coordination within the CMT.	
Expert He gives specific technical expertise. Slaman was helped by the Belgian Special Force of Federal Police (CGSU) and by an intermediary in Somalia.	Observer He observes the process and analyses objectively. He makes sure that the negotiator doesn't get too emotionally involved in the negotiations and that he doesn't develop the Stockholm syndrome towards is counterpart.
Information manager He manages and analyses information.	

⁹⁸Putnam, Robert, "Diplomacy and domestic politics: the logic of two-level games." *International Organization*. N° 42, Summer 1988, pp. 427-460.

First negotiator	Second negotiator
He is the only one who can talk to the negotiator of the SHT	Sometimes, there is a second negotiator who supports the first one and who is ready to replace him.

However, it has been observed that negotiators usually work in a three-member team. Wally Zeins, describes: “you have a negotiator, who is the primary person, a coach who coaches the negotiator, and a floater who gets the information from the different services and bring intelligence⁹⁹”. It is the same organisation for the GIGN¹⁰⁰. The negotiation team always meets before the talks in order to set a strategy. It imagines different scenarios on how the case could develop. Afterwards, it reviews the negotiation and prepares for the next round.

2.2.4 The crisis management team

The negotiator is backed up by a CMT which consists of the human resources department (HR) of the ship owners' company, its security department and everybody involved. It is responsible for managing the crisis by contacting the families of the crew, governmental agencies, media etc. The HR must call the families always at the same time so that they realise that the company is the link between their partners and the SHT. Families shouldn't try to contact the hostages directly in order to not interfere with the negotiators. In the case of the *Ponant*, families of hostages have been received at the Elysée by the French President, Nicolas Sarkozy¹⁰¹, which proves how seriously France takes piracy acts.

The CMT must be available, objective and have authority.

Recommendation for the EU

An EU CMT is needed in order to have a unified European response to hijacking and moreover, to gather all the knowledge on SHT: this would allow a better understanding of different groups, their leaders, their strategies and the places where they operate. It is especially important because many hijackings in the Horn of Africa go unreported.

⁹⁹“Stakes Raised In Pirate Talks”, CBS, 10.04.2009.

¹⁰⁰Interview with an official from GIGN, National Gendarmerie Intervention Group, special operation unit of the French armed forces, Versailles Satory, France, 16.03.2012.

¹⁰¹«Prise d'otages du Ponant: Sarkozy reçoit les familles de l'équipage», AFP, 07.04.2008.

2.2.5 The crisis centre

A crisis centre is also usually set up to bring together the different authorities and services concerned. For the EU, there is no crisis group. The EU is part of the Contact Group on Piracy off the Coast of Somalia¹⁰² but it doesn't meet to discuss the attitude to adopt for a single case.

2.2.6 Modes of communication

The first contact is always made by the SHT: they often write emails or directly telephone a company's headquarters where secretaries are trained to direct the call. In the case of the *Pompei*, a Belgian ship with a Dutch captain, the ship owners received an email from the ship at their headquarters four days after the hijacking¹⁰³. It had been sent from the captain's account and it was a request to contact the negotiator, Abdi, by phone. The ship owners had registered their vessel at EUNAVFOR but they had not been awarded private protection, this is the reason why the ship was sailing 700 leagues from the Somali coast. The ship owners contacted Hans Slaman immediately after suspecting that the *Pompei* might have been hijacked, because they had received silent alerts from the ship while it was still outside of the piracy zone as well as an email containing a single word: 'piracy'. Fahid Hassan, a former hostage, even evokes the use of SMS¹⁰⁴. All conversations are recorded to allow an analysis of the development of the negotiations to be made.

In the case of the *Ponant*, the negotiations were soon taken over by the GIGN and the Central Directorate of External Security (DGSE), while the shipowners maintained liaison with the SHT via satellite phone. The operation "Pirate-mer" was finally triggered by Prime Minister François Fillon¹⁰⁵. A problem in England and Germany is the existence of parallel negotiations between Scotland Yard and the Federal Criminal Police (BKA) and private negotiators sent on the field¹⁰⁶. The negotiator is immediately given scripts containing the response strategy as well as the negotiation line and he has to rehearse. Charters and

¹⁰²Website of the Contact Group on Piracy off the Horn of Africa, URL: <http://www.thecgps.org/work.do?action=work>

¹⁰³Direction Générale du Centre de Crise SFP Intérieur de Belgique, « "Pompei" : équipage belge et néerlandais de retour en Belgique », 06.07.2009.

¹⁰⁴Hunter, Robyn, "How do you pay a pirate's ransom?", BBC, 03.12.2008.

¹⁰⁵«L'histoire secrète du Ponant», Le Point, 24.04.2008.

¹⁰⁶GIGN, *op. cit.*

embassies of the crew are notified of the hijack.

Despite military and diplomatic help, the owners of the *Pompei* could not contact the ship for 5 days but they could finally locate it through air observations.

Negotiations then started by phone but communication was not clear and often interrupted, what made negotiators irritable. In the case where the navy is keeping the ship isolated¹⁰⁷, radio is often used. Negotiations are even more difficult because sometimes, the SHT negotiator doesn't really speak English, which is the main language used to negotiate a ransom with SHT. As described under I.A.1, the professionalism of interpreters varies. In the hijack of the *Pompei*, Abdi introduced himself as an 'experienced, professional negotiator'.

Recommendation for the EU

"Somalia is a very sophisticated economy, it has one of the best mobile phone communication systems in the world," affirms Jessica Lincoln, director of intelligence at Rubicon Resolution, a risk consultancy¹⁰⁸. The SHT have internet connections, they write blogs and they have Facebook and Twitter accounts. So why not try negotiating through Skype to allow visual contact? Indeed, negotiators can't currently use non-verbal communication, which prevents them from reading the emotions of the SHT negotiator or from building a stronger relationship. This needs to be improved.

The information manager should also search for SHT information on social media, bearing in mind that data have to be verified. Lincoln first compares tweets to trusted organisations reporting on piracy like the International Maritime Organization. If information can't be matched, she seeks who is behind it. While some SHT use Twitter as propaganda, others relay facts.

"If you can understand their agenda, you can understand where they're coming from judging that piece of information" says Lincoln.

To face such a challenging and evolving threat as piracy, the EU needs to be a modern organisation, not left behind by a bureaucratic structure.

We will now explain how the initial offer for ransom is made and how trust is built between the two negotiators.

¹⁰⁷ "Stakes Raised In Pirate Talks", *op. cit.*

¹⁰⁸ Laje, Diego, "#Pirate? Tracking modern buccaneers through Twitter", CNN, 15.03.2012.

2.3 Starting the negotiations

2.3.1 The initial offer

The amount of the ransom will depend on three material components: the value of the vessel, the value of the cargo, and the value of the crew and/or passengers. Therefore, the SHT will decide of the size of the ransom they ask in accordance with the value of the three components and with the amount they expect the European party is willing to pay, which is usually higher than what Asian or African parties accept to pay.

Negotiators have often affirmed that SHT were very 'mundane'¹⁰⁹. “They're not making threats or anything. They're very polite in their whole demeanor. They just politely demanded \$7 million” says Gullestrup, CEO of the Clipper Group¹¹⁰. This proves clearly that SHT consider their activity as a business. A 'code of conduct' has even been found on-board of SHT vessels which organises the life on-board and which regulates the comportment of SHT¹¹¹.

Typically, the amount of ransom starts with millions of dollars, but it is reduced during the negotiating process. SHT want to have the impression that they got the best deal; this is why ship owners can't accept right away¹¹². Bertrand Monnet, responsible for the chair of risk management at EDHEC Business School explains why the European party has to start the negotiation by refusing to pay and by adopting an aggressive bargaining.

This is a mandatory rule: you have to negotiate and sustain discussion as long as possible. The company must complicate the abductor, to ensure that its bad shot is the least cost possible. Conversely, if the company accepts more quickly, the price is high, the more it encourages the pirate again. By negotiating tight, you protect all your other employees¹¹³.

Resistance may mean 150 or more days of negotiations, during which many people,

¹⁰⁹“A Dutch negotiator's 71 days of talking to Somali pirates”, *op. cit.*

¹¹⁰“Behind The Business Plan Of Pirates Inc. ”, *op. cit.*

¹¹¹Classified source.

¹¹²Slaman, *op. cit.*

¹¹³Guichard, Guillaume « Piraterie : comment négocier une rançon », 17.07.2011.

have to receive a salary. However, the company shouldn't present itself as a soft target, paying easily, otherwise pirates will try to hijack more of its ships. On the other hand, by refusing to pay at all, they would risk putting the lives of the crew in danger¹¹⁴. Only exceptionally have SHT left the vessel¹¹⁵.

Slaman also advises to reverse the situation by telling SHT: "if you call me, it is because you have a problem: you made a mistake to attack this ship, now you have to get rid of it"¹¹⁶.

2.3.2 Build trust

The European negotiator should then start to build trust with the SHT's negotiator. Trust is the 'firm belief in the reliability, and truth of a person'¹¹⁷. This is made possible by the fact that SHT are not ideologised terrorists but 'simple' illegal businessmen.

An anonymous negotiator explains that it is necessary to put into place a 'golden bridge', a reliable channel of communication and a relationship based on trust.

"He can be the worst swine, he is nonetheless the partner with whom it will advance. He has a father and a mother, children like you and me, you gotta keep this in mind"¹¹⁸.

Therefore, the European negotiator should draw a picture of the SHT negotiator by asking him private questions about the village he comes from, his family status, his reasons to be a negotiator. Negotiators have to deal with the lack of visual contact which makes it difficult to build trust. Slaman adds "I always try to communicate even if we discuss other issues such as how different the weather is between Belgium and Somalia. or soccer"¹¹⁹.

Recommendations for the EU

The to-be-created EU CMT should have one native Somali speaker and one specialist

¹¹⁴"Somali pirates issue 24-hour ultimatum", Russia Today, 27.10.2008

¹¹⁵"Negotiations On-going for Captain's Release", Associated Press, 09.04.2009.

¹¹⁶Slaman, *op. cit.*

¹¹⁷Oxford dictionary.

¹¹⁸"Témoignage exclusif : une prise d'otages racontée de l'intérieur », *op. cit.*

¹¹⁹Slaman, *op. cit.*

of Somalia who help the negotiator. EUNAVFOR recently hired a 'pirate cultural adviser' in order to seek advice on the SHT's tactics, which are constantly evolving.¹²⁰ The EU needs such a person advising for negotiations as well. The EU should use the knowledge that ex-hostages, when willing, have about SHT. Sometimes, they paid attention to pirates' communication modes and routines. The EU CMT should gather all post incident debriefs.

Unlike at the Quai d'Orsay, where there are currently no Somali speakers¹²¹, the EU CMT needs one native Somali speaking advisor. The negotiator will say some simple words in Somali to build trust.

We will now turn to the bulk of the negotiations.

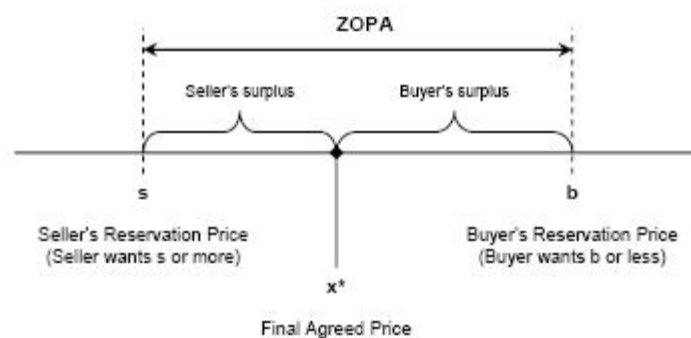
¹²⁰I couldn't gather more information about his tasks, because it is classified.

¹²¹Interview at the French Ministry of Foreign Affairs with an anonymous French Diplomat, Paris, France, 16.03.2012.

3 The middle phase

3.1 The search for a Zone of Potential Agreement (ZOPA)

A negotiation is a “joint decision-making process of two or more parties working together to reach a mutually acceptable agreement over one or more issues¹²²”. The aim of negotiations is to create a meeting of positions through an exchange of concessions. Therefore, a bargaining space or ZOPA needs to be found. The negotiator has to calculate the cost of loss and find out at what point it is better to pay. A negotiation is divided into two levels. The first level concerns the substantive issues, such as the price of the ransom. The second level of negotiation deals with the procedure to deliver the substantive issues¹²³.



(adapted from Raiffa et al., 2002)

Figure 4: Zone of Potential Agreement

In this scheme, SHT are the 'sellers', while the Western government or vessel owner is the 'buyer': he buys the ship and the hostages back. Sometimes, two ZOPAs are needed as the SHT will lead two separate negotiations, one for the ship and its cargo, and one for the hostages.

In the case of hostage-taking, the two parties are using integrative negotiation, which is interest-based and which aims at a win-win situation¹²⁴.

¹²²S.Cohen, *Negotiating Skills for Managers*, New York, McGraw-Hill, 2002.

¹²³R. Fisher et al., *Getting to yes: Negotiating agreement without giving in*, New York, Penguin, 2nd edition, 1991.

¹²⁴Aebischer, Verena, « Gestion de conflits et modèles de négociation », Département de Psychologie, Université Paris X Nanterre.

What do SHT ask for? Money, of course, but now they also ask the release of other SHT, mainly held prisoners in India¹²⁵.

Europeans will have to negotiate. It is described as a “mutually hurting stalemate”: both parties believe that the status quo is not satisfactory and that an agreement will benefit everybody. The SHT will gain money, while the ship owner will recover their ship and cargo and the crew will be freed.

Concessions made to SHT will most of the time not overlap with their initial demands, which are often extreme, in order to gain as much as possible from the negotiation. Furthermore, as piracy is the practice of uncertainty, a distinction must be made between original demands and new ones introduced during negotiations. Sometimes, the European negotiators believe that they reached an agreement, but new money-related problems arose. In the case of the Ukrainian ship, the *Faina*, SHT have changed their demands several times because they no longer agreed among themselves about the amount of ransom. During the negotiations for the *Ponant*, SHT changed twice what had been agreed. Rear Admiral Marin Gillier explains: “we made them quickly understand that it was not well and we asked something in return, and almost everything went as planned¹²⁶”.

A negotiation with SHT is a real war of attrition, partly because three different levels are involved: the leaders ashore, the holders and sometimes the negotiator himself. Indeed, it happens that the Somali negotiator tries to make a personal profit out of the negotiations. In this case, Slaman reminds him that he is just there to negotiate and explains that the negotiation is about the crew and the ship only; the Somali negotiator therefore has to talk to his chief if he wants to be paid more¹²⁷.

This leads us to the following question: how to negotiate efficiently with a pirate negotiator?

¹²⁵Rawnsley, Adam, “Pirates to India: This Time It’s Personal”, The Wired, 20.04.2011.

¹²⁶«L’histoire secrète du Ponant», *op. cit.*

¹²⁷Slaman, *op. cit.*

3.2 *How to handle a SHT negotiator?*

3.2.1 Time

“Time is the essence, the important thing is to keep negotiating” says Wally Zeins. However, different conceptions of the notion of time have made it challenging to decide the precise moment of contact. As explained above, a negotiator must always be available. Slaman says “I spoke to Abdi at least once a day, sometimes at the craziest times¹²⁸”. Somali consider that negotiations don't happen at a definite time but that they are an on-going process¹²⁹.

SHT have the time while we have the watch. Indeed, ship owners are eager to get their ship and cargo as fast as possible. Nevertheless, it is also a race against time for the SHT as other clans of SHT often try to steal hostages¹³⁰. Furthermore, they live mainly on credit: if the negotiations last for a long time, the SHT will take into consideration the fact that they need more money to repay their creditors. The European negotiator should take this into account as making the negotiations last might increase the level of violence in the negotiation or towards hostages. Moreover, the cargo might contain perishable goods which would lose their entire value if not delivered rapidly to Europe; in this case, the owner of the cargo might certainly put pressure on the negotiator to find a compromise as fast as possible.

An anonymous negotiator explains that the ship owners lose tens of thousands of dollars every day because of the immobilisation of their vessels¹³¹. Furthermore, they are confronted to political pressure, to the distress of hostages' families. If an hostage is killed or injured, the vessel owner or the shipping company will have to stand trial.

The ship owner or the shipping company usually puts pressure on the European negotiator to end the negotiations as soon as possible by giving the SHT what they want, especially because they expect their insurance to pay¹³².

¹²⁸“A Dutch negotiator's 71 days of talking to Somali pirates”, *op. cit.*

¹²⁹Goodfield, Barry Austin and LeGallo, Andre, “Challenges and psychological dynamics of negotiating risks in failed states: The Somali case”, *The Forensic Examiner*, Fall 2009.

¹³⁰GIGN, *op. cit.*

¹³¹«Témoignage exclusif : une prise d'otages racontée de l'intérieur », *op. cit.*

¹³²*Ibid.*

The negotiator needs to remind them that if they pay without negotiating, SHT will immediately double the price and if ransom payments, more Somali will join the ranks of SHT and insurance premiums will be pushed up, what would at the end affect the ship owners and the shipping companies.

Therefore, negotiations must take place but they should not last too long.

3.2.2 Impact of culture

Somali and Arabic are the official languages in Somalia¹³³; Somali are Muslims. Therefore, their negotiating style is closer to the Arabic one. They let subjective feelings enter the game, what makes it easier for the European negotiator to use the Stockholm syndrome. While the initial position is often extreme with several million dollars ransoms, making concessions is part of the negotiation process¹³⁴.

3.2.3 Dealing with feelings

Gradually, as the negotiations progress, the emotions of the SHT, of the crew and of the negotiators are severely tested. SHT can become very agitated for internal reasons, when the sea is rough, when they are chewing the khat as it makes them hyperactive or when they fear other SHT are going to try to steal their hostages. Slaman describes his experience: “I noticed that Abdi was easiest to talk to in the morning. I think that was because of the high temperatures, and because of the pirates’ habit of chewing khat every afternoon.” SHT can also become very aggressive if the khat is not delivered on board on time.

In the case where SHT make direct contact with families of the crew, the tension and uncertainty on-board increases.

On his side, the negotiator should avoid any contact with the families of the crew in order to void emotional connections Furthermore, he should take into account that when crew members are allowed to speak to the European negotiator, they are not free to talk, sometimes they must even speak in English so that the SHT can understand them. Therefore, the European negotiator has very little information on what really happens on-board.

¹³³Article 7 of the Transitional Federal Charter of the Somali Republic.

¹³⁴Meerts Paul, Professor, “International Negotiation Analysis”, course, College of Europe, Bruges, Belgium, 2011.

Sometimes, Slaman succeeded in slipping in a word in Dutch, to let the crew know that their families were taken care of, in order to morally support them¹³⁵.

3.2.4 Psychology

“Use psychology!” says Slaman. The negotiator advises us to employ the Stockholm syndrome: always try to be friendly; always try to communicate even if you discuss other issues, such as the weather. We should remember that SHT are 'businessmen', not terrorists.

Therefore, we need to behave like businessmen ourselves. Richard Barfield, a senior UK business executive who has been Chairman and CEO of a number of quoted and PE-backed companies, suggests us to play long:

Your weakness is your strength. Tell the other party that she is putting you in an impossible position; that you are with her, but that the decision-makers will never accept this proposal; therefore she needs to give you a realistic price¹³⁶.

The 'power of the weak'¹³⁷ will help to avoid deadlines set by SHT. The European negotiator needs to adapt to the SHT negotiator, be flexible and react to his behaviour. Richard Holbrooke, a former United States ambassador to the United Nations and a great negotiator said “negotiation is like jazz. It is improvisation on a theme. You know where you want to go, but you don’t know how to get there¹³⁸”. This is the reason why many positions must have been imagined before each negotiation.

In case of verbal fight, Slaman advocates to disconnect immediately the communication in order to prove to the SHT that it is them who have a problem, not the European party. It reminds the SHT that the European negotiator is not the decision maker: he can therefore only talk and listen¹³⁹.

In order to give nothing away but make trade off, Slaman recommends that the European negotiator uses rewards: “when you give pirates a reward, they will repeat the

¹³⁵“A Dutch negotiator's 71 days of talking to Somali pirates”, *op. cit.*

¹³⁶Interview with Richard Barfield, Businessman, Cambridge, England, 08.04.2012.

¹³⁷Habeb William Mark, *Power and tactics in international negotiation: how weak nations bargain with strong nations*, Johns Hopkins University Press, 1988.

¹³⁸Holbrooke, Richard, acceptance remarks at the 2004 PON's Great Negotiator Award.

¹³⁹Slaman, *op. cit.*

action over and over again¹⁴⁰”. For example, if the negotiator starts by saying that he will not pay, he should make little steps up every time the SHT goes down.



The negotiator must however be extremely careful and show the SHT that he is seriously involved in the negotiations. In the case of the Egyptian-owned vessel “Blue Star”, the SHT first asked for a \$6 million ransom which was reduced to \$2 million. The vessel owners offered to pay \$100,000 as final settlement, what made the SHT very angry; they started to abuse hostages and forced them to call their families and the directors of their shipping company to tell them that they were in danger of death.¹⁴¹ This can be considered as a threat of defection.

While showing that he is seriously involved in the negotiations, the negotiator should also display good knowledge of the 'market price'. Gullestrup, the CEO of a Danish shipping company, laughed at the initial price fixed by the SHT of \$7 million, calling it “a fantasy number”, declaring that it was “way, way, way above the market and way, way above what we knew was being paid for other ships and ... for similar hijackings¹⁴²”. Therefore, while the strategy of the SHT is to start very high, the European negotiator must start very low.

If no improvement is made quickly, Gullestrup advises to tell the SHT “OK, then there's nothing else to talk about, and we won't call you anymore, and you can call us when you are ready to reduce your demands¹⁴³”.

He explains that he is not worried about the safety of the hostages as they are a bargaining asset for the SHT. Nevertheless, as I will show later, SHT are now using more violence towards hostages than they used to. They rarely kill their hostages otherwise they can't get money for them, however, physical and psychological tortures have been reported. Therefore, Gullestrup's strategy should be used with extreme caution.

¹⁴⁰ *Ibid.*

¹⁴¹ Al-Sharq Al-Awsat, 08.12.2008, quoted in Bos and Stacke, *op. cit.*, p.37. Original source not found.

¹⁴² “Behind the business plan of pirates Inc.”, *op. cit.*

¹⁴³ *Ibid.*

Slaman also recommends to pretend not to be concerned about the health of the crew and not to show any feelings towards the hostages or the ship and its cargo, as they could be used by the SHT to put pressure on the negotiator and the ship owners.

Psychologically, that would have put the trump card in the hands of the pirates. Of course, they were holding all the cards already, but there was no need for us to add to that.¹⁴⁴

This could amount to a reverse smoke-screen strategy, which is a strategy in which a party pretends that an issue is more important to her than it actually is. I will call this reverse smoke-screen strategy, the 'Aubade strategy number 5'¹⁴⁵: the negotiator must affect indifference to the fate of the hostages, even though their health and safe return is his primary aim.

Consequently, the negotiation strategy with SHT is threefold: build a relationship, communicate and reward. It can be described as a cooperative approach, as opposed to a hard positional bargaining¹⁴⁶.

It must be noted that it is also the approach taken by SHT. A negotiator explains:

The first shock for me is the difference between his [the Somali negotiator] honeyed voice, servile, and the words he said. He presents himself as a humanitarian volunteer working for the release of hostages poor, but I know what it is. I'll have to play on the fault of the man: his difficulty assuming the job of criminal. He repeats: "It's a terrible situation, my friend." If tomorrow we must announce the execution of a sailor, he will do in tears¹⁴⁷."

Both parties, the SHT and the European, have something to gain from negotiations, money or the release of hostages, ship and cargo. Nevertheless, negotiations are going to be tough as the Somali negotiator has a reputation to protect if he wants to be hired by SHT in more operations.

¹⁴⁴ "A Dutch negotiator's 71 days of talking to Somali pirates", *op. cit.*

¹⁴⁵ The French lingerie brand Aubade conducted an advertising campaign in which women with beautiful bodies were giving relationship advice to female readers. Lesson No. 5 was entitled "feigning indifference."

¹⁴⁶ Nash John F., "The Bargaining Problem", *Econometrica* 28, 1950, pp.155-162.

¹⁴⁷ «Témoignage exclusif : une prise d'otages racontée de l'intérieur», *op. cit.*

Therefore, we will now study the different means each party has of placing pressure on the other.

3.3 *Ways of pressure*

3.3.1 On governments and vessel owners

SHT have ways to increase pressure on governments and vessel owners. It has been reported that some STH intentionally caused damage to the vessel by opening the hatches of a bulk coal cargo, causing overheating¹⁴⁸. However, it is not in their benefit to harm the vessel and its cargo as they are considered valued assets, which could be sold on the black market in the case of failure of the negotiations.

In some cases, chiefs of SHT, principally in Eyl, have invited journalists in order to make their demands known¹⁴⁹. Nevertheless, it is not a good idea to make negotiations public because media should not hinder the work of negotiators by revealing their tactics.

It has been observed that SHT try to contact families to increase pressure on vessel owners and governments. In the case of Indian hostages, the SHT also reported that they were seriously ill or had died to put pressure on the other party¹⁵⁰. Sometimes, it is not true but hostages are not allowed to contact anybody. Nevertheless, Major General Buster Howes, OBE, Operation Commander of EUNAVFOR declared that “there are regular manifestations of torture. The restraint of earlier years has been replaced lately with “a willingness to use much more violence and much more quickly¹⁵¹”. Nevertheless, I have been told by a representative from EUNAVFOR that “there is no danger for hostages. Only Indian hostages are tortured because the Indian government kills pirates it captured¹⁵²”. One SHT asserted that the Chandlers, would both be killed by March if there was no agreement; he also reported that they were suffering in dreadful conditions¹⁵³. An ultimatum was also

¹⁴⁸Ince&Co, Shipping law firm, “*Shipping. Piracy-Responding to a piracy incident*”, leaflet.

¹⁴⁹A. Gascon, «Les damnés de la mer : les pirates somaliens en mer Rouge et dans l’océan Indien», *Diplomatie* no 40, septembre-octobre 2009.

¹⁵⁰V. Archer, “Hostage’s family begs for help”, Somalia Report, 15.03.2012

¹⁵¹D. Howden, “Somali pirates are ‘using torture’ as defence shield”, The Independent, 03.02.2011

¹⁵²EUNAVFOR, *op. cit.*

¹⁵³“British Gov’t Refuses to Pay Pirates”, Dockwalk.com, 12.01.2010.

given in the case of the *Faina*, SHT declared that they would kill hostages if the ransom was not paid “by Tuesday”¹⁵⁴.

In the case of the Egyptian-owned vessel “Blue Star”, the SHT stated their conditions in Arabic on live TV. They declared that hostages were being mistreated. Serious threats were made and the crisis on-board the ship following the exhaustion of fuel, water, medicine and food supplies was described. The SHT even threatened to blow up the ship with all the hostages if a ransom was not paid¹⁵⁵.

How to react in such a situation? Advices can be drawn from cases of bullying at work. Marie-José Gava, a Mediator in conflict resolution at work, explains that when facing bullying, the first reaction must be to step back without feeling guilty in order not to be destabilised by a manipulator and not to fall into the trap of bullying¹⁵⁶. The negotiator has to stay impassive and hide the hold the SHT has on him. If mobbing is confirmed, i.e. if the SHT really pretend or actually harm a hostage, the negotiator has to feign indifference. If the bullying persists, SHT should be impressed by an attack by the navies, to show them that Europeans have the means to defend themselves.

In any case, threats are part of the negotiation process in order to bolster one's demands.

According to Hulburt, 41% of hostages have not been mistreated while 59% have been abused and tortured¹⁵⁷. At Chatham House, allegations of violence are being weakened: “nothing to suggest torture is being used¹⁵⁸”. While majority of hostages are from developing countries¹⁵⁹, maltreatment has been reported mainly on those for whom little is expected in terms of ransoms, essentially illegal fishing crews from East Asia and on crew from countries such as South Korea or India, who have reacted energetically to pirate acts. SHT have avoided hurting European, Russian or American hostages as their governments will often have the military means to react, while if taken care of, they can bring in more money.

¹⁵⁴“Somali pirates issue 24-hour ultimatum”, *op. cit.*

¹⁵⁵Stracke and Bos, *op. cit.*, p. 38.

¹⁵⁶M-J, Gava, *Harcèlement moral: comment s'en sortir?*, Editions Prat, Mars 2009.

¹⁵⁷K. Hulburt, *The Human Cost of Somali Piracy*, Oceans Beyond Piracy, 06.06.2011.

¹⁵⁸“Somali pirates are 'using torture' as defence shield”, *op. cit.*

¹⁵⁹Hulburt, *op. cit.*

Faure describes hostages as assets or negotiation capital. He focuses on terrorists but this analysis can be enlarged to SHT:

Hostages can be terribly mistreated [...]; they have no intrinsic value to their abductors but they have [...] a real extrinsic value. Terrorists tend to consider them so low as being dehumanized while the outside world may highly prize their life as human beings and sometimes as symbols. In other words, the hostage's value is a double-value that may, on occasion, lead terrorists to kill their victims. But there is a limitation because killing them would be destroying the possibility of gains, which was the very purpose of the hostage-taking.¹⁶⁰

In the case of SHT, as their motivation is purely financial, the well-being of the hostages, as well as the condition of the vessel and the cargo, is one of their principal bargaining leverage. "I am satisfied: threats indicate that hostage takers want to advance in the negotiations", says an anonymous negotiator¹⁶¹. He suggests introducing a few days of silence to regain the upper hand.

The GIGN declared that if SHT behave badly towards hostages, they will be paid less.¹⁶² Slaman affirms the same "we tell them that if they don't feed the crew correctly, they will not receive a penny from us"¹⁶³. Nevertheless, the crew of the *Pompeï*, for which Slaman was negotiating, was threatened and intimidated many times¹⁶⁴.

Guillaume de Roquefeuil, a NATO official, explains that tortures and violence are not a policy. Ex-hostages, such as the Chandlers (UK) and the Delanne (France) attested that the SHT had never been disrespectful to them. The SHT have a Code of Conduit in which fines for each injury to hostages are stated¹⁶⁵. Therefore, when torture takes place, it originates

¹⁶⁰Faure and Zartman, *Negotiating with terrorists-who holds whom hostage?*, *op. cit.*

¹⁶¹« Témoignage exclusif : une prise d'otages racontée de l'intérieur », *op. cit.*

¹⁶²GIGN, *op. cit.*

¹⁶³Slaman, *op. cit.*

¹⁶⁴"A Dutch negotiator's 71 days of talking to Somali pirates," *op. cit.*

¹⁶⁵This document is classified. Unfortunately.

from individual acts. Regrettably, not all of them are reported to authorities. According to the United Nations Office for Drugs and Crime (UNODC), there is 1.3 seafarer killed per 100,000.¹⁶⁶ A systematic report of violence must be set up.

Recommendations for the EU

Myths should be stopped and a genuine knowledge of SHT and of their actions must be developed. It starts within the EU, which presents itself as having a ‘comprehensive approach to Somalia’. However, there seems to be very little coordination between EU organisations and even within each organisation. Koen Vervaeke, EU Director for Horn of Africa, declares that “before succeeding in being well coordinated with others, the EU should coordinate itself first¹⁶⁷”.

Therefore, a post-crisis management must be put into place. In the UK, the House of Commons criticised the Foreign Office by stating that it “should review its communications and other procedures to provide support to family members of British hostages¹⁶⁸”. Rather than national debriefing processes, I recommend that hostages, once released, meet under the EU’s supervision, in their own country, to express their feelings as being held hostage is a psychological shock. A psychologist must be present. A member of the CMT should attend those sessions as well to gather as much information as possible on SHT's way of life on board and on the violence exerted on hostages.

EUNAVFOR already recommends to hostages to “contribute to a post incident debrief as soon after your release as possible¹⁶⁹”. Nevertheless, it doesn't offer any debriefing facilities itself.

Furthermore, information related to violence at sea must be gathered and it should be good that the IMB and the EU take this responsibility. EU ships often have European officers and non-European crew; therefore, the EU must share its information about the ways the pirates exert pressure, with other international organisations.

¹⁶⁶Hulburt, *op. cit.*

¹⁶⁷Interview with Koen Vervaeke, Director for Horn of Africa, EEAS, College of Europe, Bruges, Belgium, 13 April 2012.

¹⁶⁸N.Gros-Verheyde, «La chambre des communes tance son gouvernement sur la piraterie», Bruxelles2, 08.01.2012.

¹⁶⁹EU NAVFOR, “Surviving Piracy Leaflet for Seafarers”, Press Briefing, Northwood, UK, 20.02.2012.

3.3.2 On SHT

The only guarantee that negotiators have that the crew is going to be released is trust¹⁷⁰. Nevertheless, one way to put pressure on the SHT is to remind them that the European party can use force if it needs to. McGowan, a New York Police District hostage negotiator, explains to SHT “if you don't want to deal with us, you will have to deal with those other guys and they got the big guns¹⁷¹”.

However, violence leads to violence and there are rumours that pirates provided themselves with ground-to-air missile (GTAM), shoulder-held missile launchers and submarine missiles from Libya says Judith van der Merwe, of the African Centre for the Study and Research on Terrorism.

We found that Libyan weapons are being sold in what is the world's biggest black market for illegal gun smugglers, and Somali pirates are among those buying from sellers in Sierra Leone, Liberia and other countries. If that was true, we can expect an increase of violence in the coming months”, she explains¹⁷².

Nevertheless, Rear Admiral Harris Chan of the Singapore Navy affirmed that “at this stage we are seeing no evidence the pirates of Somalia are having any weapons beyond the AK47s and RPGs¹⁷³”. In the case of the *Ponant*, while negotiations were taking place, the French navy forces were preparing an attack on SHT in case diplomacy failed but as negotiations were going well, the military grip was loosened so as not to put pressure on the SHT¹⁷⁴. A negotiation serves to inform, to save time, even if it leads to assault.

SHT nonetheless use hostages as human shield: after discovering that the British navy was ready to attempt to rescue the Chandlers, the SHT threatened to fight back and even to kill their hostages or hand them over to a terrorist group¹⁷⁵. Therefore, force should be used in last resort only.

¹⁷⁰Slaman, *op. cit.*.

¹⁷¹“Stakes Raised In Pirate Talks”, *op. cit.*.

¹⁷²“Analyst says Somali pirates have new weapons from Libya”, Reuters Africa, 12.04.2012.

¹⁷³*Ibid.*

¹⁷⁴«L’histoire secrète du Ponant», *op. cit.*.

¹⁷⁵“British Gov't Refuses to Pay Pirates”, *op. cit.*.

Negotiations can last quite a long time before an agreement is found. We will now study the last aspect of negotiations: the finding of a solution and its consequences, the payment of the ransom and the release of hostages.

4 The end phase

The end phase is where a peaceful or violent solution is implemented: hostages are released and trade-off is made, or an attack from the European side is launched on SHT.

4.1 *The ransom*

4.1.1 The kind of deals: separate or package

SHT can either ask for a package deal or for separate deals. The first strategy is to demand a single ransom for the three components: the vessel, the cargo and the crew. It seems to be the most common strategy used by SHT¹⁷⁶. Indeed, they prefer to end the operation as fast as possible as they incur expenses while waiting for the ransom to be paid and they risk being attacked by the navies and/or by other groups of SHT. Like taxi-drivers, they would rather finish an operation quickly and then re-focus their capacities onto a new 'ride'. Therefore, it could be a good idea to make negotiations last, however it might also render SHT more violent.

However, in some cases, the SHT have made separate deals for each of the three components. They divided components and demanded a price for either just one component or for all of them. This method is used if, for example, a ship has no commercial value to the SHT, such as in the case of the Chandlers' ship. It was abandoned as it could not be used either for keeping the hostages on board as it was too small. The Chandlers have been moved to a hijacked vessel that SHT had kept as it could stock more supplies and SHT holders¹⁷⁷. This followed from the fact that Haradhere elders refused to allow the Chandlers to be held ashore. According to an anonymous official, the kind of sailing ship used by individuals is not capable of being sold on the regional market. Therefore, the deal concerns only the hostages.

On some occasions when negotiations were lasting too long, the SHT have also separated the demands of ransom.

4.1.2 Amount of ransom

¹⁷⁶Stracke and Bos, *op. cit.*, p.39.

¹⁷⁷"Pirates demand \$7 million for yacht couple, Britain says", CNN, 31.10. 2009.

The amount of ransoms is often kept secret in order not to trigger the greed of more pirates-to-be. If the amount of a ransom is high and is made public, seafarers' lives will be endangered as more men may turn to piracy. Furthermore, more ships from either the same shipping company or the same country will be targeted by SHT. Mikhail Votienko, a Russian military expert, declared that “a reasonable ransom will be paid [for the Ukrainian ship, the *Faina*], not 8 million or 20 million, because to pay such a sum would endanger other ships held by pirates¹⁷⁸”. Nevertheless, while the number of successful attacks has decreased, the amount of ransoms has considerably increased. In 2008, ransoms ranged from \$500,000 to \$15 million. As this was lower than the value of the ship and of the cargo, shipping firms accepted to pay. This encouraged SHT to ask for more money¹⁷⁹.

$$\left(\text{ACCEPTABLE RANSOM} \right) = \left(\text{PREVIOUS PAYOUTS} \times \text{LIKELIHOOD of VIOLENCE} \right)$$

Nevertheless, there is a tendency for SHT to declare higher amounts than generally received (ransom inflation) as they could use it as a bargaining leverage in another negotiation.

A maritime security company states on its website that an average ransom will climb to \$ 7 or 8 million for an average hijacking length of 200 days¹⁸⁰. Recently, \$10 million have been paid for the Italian vessel, *Enrico Ievoli*. An anonymous official stated that Italy pays ransoms “easily”. The highest ransom to have been paid was officially for the Greek oil tanker *Irene SL* for \$13.5 million¹⁸¹.

Andrew Shapiro, a US senior official in the state department explains that:

A vicious cycle has formed where ever-rising ransom payments have not just spurred additional pirate activity but have also enabled pirates to increase their operational capabilities and sophistication. Piracy has gone from a fairly ad-hoc disorganised criminal endeavour to a highly developed transnational criminal enterprise¹⁸².

¹⁷⁸“Somali pirates issue 24-hour ultimatum”, *op. cit.*

¹⁷⁹Stracke and Bos, *op. cit.*, p. 40.

¹⁸⁰Website of Triton Risk, URL: <http://www.triton-risk.com/>

¹⁸¹“Pirates bag mega ransom”, Trade Winds, 13.06.2011.

¹⁸²“Judith Tebbutt case puts spotlight on government's ransom policy”, *op. cit.*

We will now examine who has to pay the ransom.

4.1.3 Who is liable to pay?

In the UK mainly, as in most MSEU, piracy has been absorbed by the clause 6.1.5 of the Institute Hull since 1983¹⁸³. Therefore, the burden of ransom payments tends to lie on the insurers under the 'sue and labour expenditure' policy and where there is cargo on board, under the 'general average expenditure' policy¹⁸⁴. However, the Hull clauses are silent as to whether damages related to delay are covered¹⁸⁵. In 2009, Massefield A.G., a Swiss commodities trading company, claimed to have incurred \$13,3 million in losses from a two months delay and it filed a lawsuit in the UK against an underwriter from Lloyd's but the court held that the cargo was not totally lost¹⁸⁶. Nevertheless, it gives us an insight into the disputes which can be started in Europe once the vessel has been released.

The following chapter studies how the ransom is paid.

4.2 Ransom payment

4.2.1 Pay day

Once negotiations have been concluded, it is time to implement the deal. An anonymous negotiator warns that telling the crew might lead to the opposition of a government which has a policy of not paying ransom¹⁸⁷. A written agreement could be sent by fax, as it has then to be transmitted to a complex chain of administrative signatures, such as international financial authorities. It takes usually a few weeks before money is delivered.

SHT will secure the delivery of the ransom before releasing hostages. According to a SHT leader, four ways to receive the ransom money exist:

¹⁸³ Ince&Co, Shipping law firm, "Piracy off Aden and Somalia: an overview of legal issues for the insurance industry".

¹⁸⁴ *Ibid.*

¹⁸⁵ R.Siemens et al, "Piracy's impact on insurance", Risk Management.

¹⁸⁶ D. Vassos and C Mellows, "Keeping watch: some recent rulings under English law regarding piracy", Currents Magazine, Issue 30, 05.2010, p. 9.

¹⁸⁷ «Témoignage exclusif : une prise d'otages racontée de l'intérieur», *op. cit.*

1/ The ransom could be sent to a commercial or a military ship present nearby. A SHT would then collect it, check that the full amount is present and accordingly issue the order to free the hostages¹⁸⁸. However, the risk to see the ransom robbed by another group of SHT before it is delivered is present, as it happened in the case of the Greek ship, the *Maran Centaurus*, as it was at the time the bigger ransom ever paid¹⁸⁹.

2/ The ransom could be put into a container such as an inflatable ball and dropped by a plane or an helicopter on-board of the ship held by the SHT, using a parachute guided by a Global Positioning System. It is a more accurate and safer way to deliver the ransom, as it makes it more difficult to be robbed by other SHT but it's very expensive and not all companies have the capabilities to air-drop¹⁹⁰. The plane will fly three times over the vessel: the first time to be recognised, the second to check that the entire crew is on deck and the third time to finally drop the money.

The SHT normally ask for \$50 or \$100 notes. Athman Said Mangore, a Kenyan sailor and ex-hostage, says “I don't know why they make those demands. They usually also don't like dollar bills that were printed in 2000 or the years before. If it was printed in 1999, they say: 'This is not fit to be used in our shop'¹⁹¹”.



Delivery of ransom on the Sirius Star: crime pays!

3/ The hawala system can be used. The money could be sent to shops in Somalia which are hawala brokers, or 'hawaladars', where SHT would collect it. The ransom payer would

¹⁸⁸ Stracke and Bos, *op. cit.*, p. 40.

¹⁸⁹ « La rançon astronomique du Maran Centaurus provoque violences et convoitises », RFI, 19.01.2010.

¹⁹⁰ “Delivering Cash to Pirates as Difficult as Negotiating Ransom”, *op. cit.*.

¹⁹¹ “How do you pay a pirate's ransom?”, *op. cit.*.

approach a hawala broker in one city, for example London, and he would give the money to be transferred to the hawaladars in Somalia. The London-based hawala broker would call the Somali hawala broker to give instructions about the funds and promises to settle the debt at a later date. A small commission is taken on the transaction. Some law firms, such as Ince&Co, declare to be using this method¹⁹².

Hawala is a profitable system as official exchange rates are usually bypassed because the money enters the system in Euros, Dollars or Sterlings and leave the system in Somalian Shillings. The hawala is not controlled by governments and is also very fast¹⁹³. Nevertheless, after 2001, this method came under investigation of counter terrorism laws which considered them as a way for terrorists to fund their attacks and to transfer money internationally. Consequently, many governments have put into force some restrictions to the hawala transactions. The amount that can be transferred has been reduced and sometimes, the hawaladars asks for ID papers¹⁹⁴. However, one can easily understand that these restrictions have not been implemented in the case of Somalia, where the different governments have no authority, especially not on the banking system.

4/ The money could be sent to an accomplice/associate in Kenya who would then transfer it to the SHT. Cloonan explains that the delivery fees have consequently exploded: “in some cases, the fees to deliver the ransom have been more than the ransom itself”, he said¹⁹⁵.

Recommendations for the EU

The EU should create a European organisation for the delivery of ransoms so as not to encourage a market of 'ransom delivery' to develop and spread. Nevertheless, the problem this idea would be facing is that it would officially acknowledge the recognition of ransom payment. Furthermore, not so many European ships are hijacked which is an argument against a permanent organisation. An alternative would be to allocate two aircraft to this task.

¹⁹²“Shipping. Piracy-Responding to a piracy incident”, *op. cit.*

¹⁹³Passas, Nikos, “Demystifying Hawala: a look into its social organization and mechanics”, *Journal of Scandinavian Studies in Criminology and Crime Prevention*, Volume 7, Supplement 1, 2006, p.46-62.

¹⁹⁴Forliti, Amy, “Reprieve for US Somalis on Money Transfer Issue”, Associated Press, 12.12.2011.

¹⁹⁵“Delivering Cash to Pirates as Difficult as Negotiating Ransom”, *op. cit.*

4.2.2 Splitting the ransom on the Somali side...

Once the ransom has been received, it is split between SHT which then distribute it among a large fraction of society. This allows them to guarantee support and protection for their activities.

I won't give information about the division of ransom among SHT as this seems to diverge between groups and I don't believe this knowledge can be generalised. Nevertheless, it is clear that fixed costs have to be paid. These are: reimbursing the suppliers and the investors. Some journalists speak about the existence of 'class A' share for SHT who provide a skiff or a firearm such as a RPG¹⁹⁶. I have even heard rumours stating that a woman bought a RPG to rent it to SHT. However, I personally doubt that this is still the case as operations are more and more organised and are less a gathering of Somali fishermen or ex-soldiers with no equipment.

What is certain is that an important tradition of sharing remains in Somali culture¹⁹⁷. Anja Shortland, researcher for Chatham House, explains that a significant proportion of ransom money is converted into Somali Shillings. This benefits Somali consumers as they enjoy lower commodity prices. It has also been reported that SHT distributed food to the inhabitants of coastal villages as well as envelopes containing \$100 bills¹⁹⁸. Shortland adds that Garowe and Bosasso, two SHT havens which are resistant to navy attacks, seem to benefit the most from SHT money flows, while Eyl and Hobyo, despite being more important SHT hubs, have received less investments¹⁹⁹.

¹⁹⁶Kaminska, Izabella, "The pirate business model", The Financial Times, 31.03.2010.

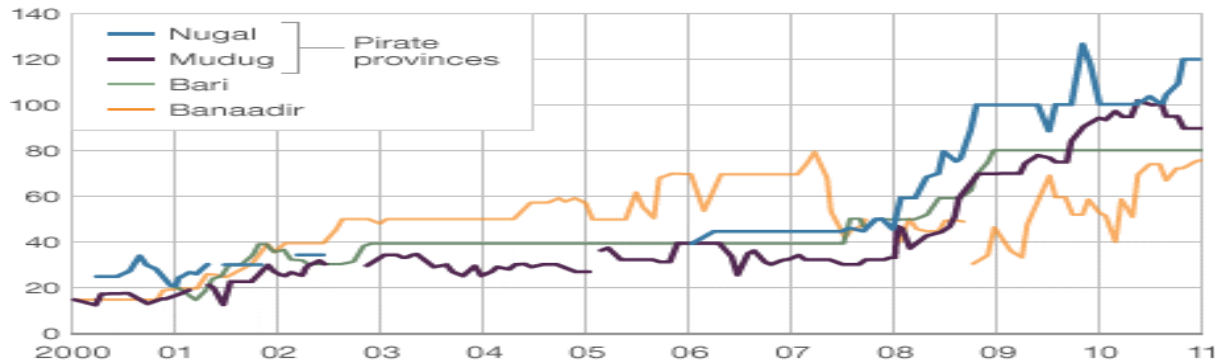
¹⁹⁷Lindley, Anna, "The Early Morning Phonecall: Somali Refugees Remittances", *Studies in Forced Migration*, Vol.28, Berghahn Books, 2010.

¹⁹⁸Stracke and Bos, *op. cit.*, p.37.

Shortland, Anja, "'Robin Hook': The Developmental Effects of Somali Piracy", July 2011, Brunel University, Working Paper No. 11-11, p.4.

How wages have grown in Somalia's pirate provinces

Nominal wage in Somali shillings per day (000s)



Source: Chatham House

(Chatham House 2011)

Figure 5: Wages in provinces of SHT.

Nevertheless, Colonel John Steed, the Military Advisor to the UN and Special Representative for Somalia, says the proceeds of piracy are "creating a false economy which will not bring long-term jobs"²⁰⁰.

SHT and Somalia are however not the only ones to benefit from this lucrative business.

4.2.3 ... and on the European side.

Roger Middleton affirms that "the professional negotiators, acting on behalf of the ship owners, get about \$100,000 for their services and the lawyers receive a fee of about \$300,000 for ensuring that the shipping companies are not putting themselves in any dubious positions". "Most of it happens in London", he adds²⁰¹. The negotiation fees are usually based on the difference between the ransom demanded and the actual amount delivered. An advance is often needed to start the crisis response.

An anonymous official told me that an average insurance payout amounts to \$300,000 only for the delivery of the ransom, while the delivery itself cost about \$545,000. For a certain delivery, two aircraft were used to drop the ransom on the hijacked ship, which also has a cost. Therefore, the delivery of a ransom can cost more or less \$1 million.

²⁰⁰T. Lister and Z. Verjee, "Piracy and Kidnapping in Somalia", CNN, 25.01.2012.

²⁰¹"How do you pay a pirate's ransom?", *op. cit.*.

Furthermore, security companies have flourished with the growth of piracy²⁰².

4.3 *Liberation of hostages*

As soon as the SHT had left the vessel, the captain usually makes an initial contact with satellite phone with the families of the crew and with the ship owner. A safety inspection is then made, to look for traces of explosives or weapons. Usually, all the personal belongings of the crew have been stolen by the SHT.

In the case of the *Pompei*, the crew locked the canteen and the captain's cabin, which were the places where SHT spent the most time, in order to await the conduct of inquiry and investigation by a Prosecutor²⁰³.

Commonly, the captain then establishes contact with a navy vessel posted nearby. An anonymous negotiator explains that it is imperative to ensure the safety of vessel after delivery of the ransom to prevent another group of SHT from hijacking it again. He writes: “we solicited the UK Maritime Trade Operations (UKMTO), the EU, the Germans, Chinese and English. All of them did not care at all²⁰⁴”.

Recommendations to the EU

EUNAVFOR should arrange that ships come back safe to a port, despite the fact that escort is expensive and that the area is big. Negotiations should not start again for the same vessel, as it would be emotionally extremely difficult for hostages, who might commit suicide.

Even if navy ships are willing to protect hostages once released, what guarantees do negotiators actually have that the crew will be released? Colonel John Steed declared that although the ships are released, hostage takers sometimes keep the hostages and try to extort more money for their release. Individual negotiations for the hostages have to start again in this case²⁰⁵.

²⁰²K. Manson and R. Wright, “Somali pirates spawn lucrative security trade”, The Financial Times, 08.02.2012.

²⁰³«"Pompei" : équipage belge et néerlandais de retour en Belgique», Op. Cit.

²⁰⁴«Témoignage exclusif : une prise d'otages racontée de l'intérieur», op. cit..

²⁰⁵“Piracy ad Kidnapping in Somalia”, op. cit..

4.4 *In the case of failure of negotiations*

If the negotiations fail or if the ransom is not paid, SHT can sometimes sell the vessel, or its dismantled parts, on the black market²⁰⁶. This view is not shared by Xavier Larreur, Navy Deputy to the French National Military at NATO²⁰⁷. However, commercial goods transported by the vessel such as rice are either distributed among members of the SHT's clan or among other clans to ensure their protection and support or sold in the regional or local market, depending on their nature.

It is more common that SHT keep the ship to use for other purposes, such as transferring hostages from smaller ships on those bigger vessels. Oil tankers, large cargoes and container ships which carry lot of fuel and gas oil could be emptied and the oil used for new operations.

4.5 *Post negotiation attacks on SHT*

After the release of the *Ponant*, Admiral Gillier launched a helicopter raid by boarding commandos to intercept the SHT on land. This air raid took place with the agreement of the Somali government²⁰⁸. This is the only time where SHT were followed on land after the ransom was paid. The extension of mandate of Atalanta will not allow armed forces to track SHT on land²⁰⁹.

A former commander of naval Task Force 151, the American anti-piracy operation, adds that SHT usually surrender when faced with the massive fire power of navy ships. However, if the SHT really bought Libyan weapons, their capture could be more dangerous and violent²¹⁰.

4.6 *Length of negotiations*

We observe a lengthening of the duration of negotiations. Their average length in 2005

²⁰⁶Stracke and Bos, *op. cit.*, p. 36.

²⁰⁷Larreur, *op. cit.*

²⁰⁸« L'histoire secrète du Ponant », *op. cit.*

²⁰⁹N. Gros-Verheyde, «Atalanta vise les pirates à terre, toutes les explications», Bruxelles2, 22.03.2012.

²¹⁰«Analyst says Somali pirates have new weapons from Libya», *op. cit.*.

was twenty days and in 2010, it was about 150 days²¹¹. Consequently, European negotiators need to adapt their strategy.

The following table tries to assess if the length of negotiations and the use of force seem to have an impact on the amount of the ransom²¹².

MSEU OF THE SHIPOWNER	TYPE OF SHIP	PLACE HELD	LENGHT OF NEGOTIATIONS	NUMBER OF CONTACT BETWEEN NEGOTIATORS	AMOUNT OF RANSOMS+ PAYER	VIOLENCE USED?
BELGIUM	<i>Pompeï</i> , dredger.	600 km from the Somali coast. A SHT source claimed it was anchored in the port of Harardhere.	71 days. 18.04.2009-27.06.2009.	171 calls	\$2.8 million.	No.
DENMARK	<i>MV Danica White</i> , cargo ship.	In Somali waters.	83 days (01.06.2007-23.08.2007)	Unknown.	\$1.5 mllion, paid by owner.	Yes. On June 3, the USS Carter Hall Harpers Ferry-class landing ship dock fired machine-gun bursts at the SHT skiffs.
	<i>-MV Svitzer Korsakov</i> , toag boat, low speed.	The ship was held near Eyl in Puntland.	47 days (01.02.2008-18.03.2008)	Unknown.	\$700,000 paid by owner.	No.
ENGLAND	<i>Lynn Rival</i> Yacht of the Chandlers.	The Foreign Office demanded that the Chandlers should be	388 days. 23.10.2009-13.11.2010.	Unknown.	A \$7 million ransom was demanded. The family eventually paid	No.

²¹¹A. Bowden, et al., "The economic cost of piracy", One Earth Future Working Paper, December 2010, p. 9.

²¹²Information are gathered from all my reading. This table is not exhaustive.

		released on humanitarian grounds, citing the fact that the yacht was not involved in the dumping of toxic waste or illegal fishing and was in international waters.			\$750,000.	
FRANCE	- <i>MY Le Ponant</i> , luxury yacht, 14 knots	13°12'00"N 050°14'00"E	8 days. 04.04.2008- 12.04.2008.	Unknown.	About \$2 million paid by the insurance of the shipowner, AIG.	Yes. After the release of the crew, the GIGN tracked the SHT on land. From an helicopter, a sniper disabled the engine of the SHT car while another helicopter landed and captured six SHT and recovered some of the ransom.
	- <i>Le Tanit</i> , yacht.	Unknown.	6 days. 04.04.2009- 10.04.2009.	Unknown.	None.	The French forces offered to pay a ransom but the SHT refused the amount offered. The forces attacked, one hostage and three SHT

	+ many SHT attacks repelled.					were killed.
GERMANY	- <i>Hansa Stavanger</i>	400 miles east of Mombasa. Attacked twice.	123 days. 04.04.2009- 03.08.2009	Unknown.	\$15 million was demanded. Around \$2 million paid for release of the vessel and crew.	No.
	- <i>MT Marida Marguerit</i> , chemical tanker.	Unknown.	267 days. 06.05.2010- 28.01.2011.	Unknown.	\$5.5 million.	Unknown. Hostages were tortured.
	- <i>Beluga Nomination</i>	400 miles north east of the Seychelles 1° Nord, 56° East.	81 days. 22.01.2011- 13.04.2011.	Unknown.	\$5 million.	During a failed attempt to free the crew from SHT, two crew members and one SHT were killed, and another sailor drowned while trying to flee.
	- <i>MV New York Star</i> , tanker.	120 nautical miles south of the Omani port of Salalah.	1 day. 28.01.2011- 29.01.2011.	No negotiations.	None.	The crew closed itself in the citadel The SHT could not break in before the navies arrived.

GREECE	<i>MV Maran Centaurus</i> , tanker. The ship was carrying US\$140 million in crude oil.	800 nautical miles east of Somalia	Unknown.	Unknown.	\$5 to 7 million.	No. However, different SHT groups fought for the ransom.
	<i>-Irene SL</i> , supertanker . Carried 2 million barrels of crude oil with an estimated value of \$ 200 million.	250 nautical miles South East of Salalah, 350 miles southeast of Muscat, Oman, in the Arabian Sea.	60 days. 09.02.2011-08.04.2011.	Unknown.	\$13.5 million paid by Greek owner, NS Lemos.	No.
ITALY	<i>Enrico Ievoli</i> , tanker.	In the Arabian Sea.	118 days. 27.12.2011-23.04.2012.	Unknown.	Allegedly \$10 million.	No.
SPAIN	<i>FV Playa de Bakio</i> , tuna fishing vessel, low speed.	The ship was hijacked at 217 nautical miles (400 km) off the Somali coast at 0°6'24"S 49°8'5. It was anchored off southeast Puntland 6"E by 4 pirates	6 days. 20.04.2008-26.04.2008.	Unknown.	Allegedly \$1.2 million. The Spanish government denies having paid.	Not clear.
	<i>-SPS Patiño (A14)</i> , Replenishment oiler.	Attacked on 12.01.2012. Pushed back SHT and captured 6 of them.	Zero.	No.	None.	None.

Negotiations are now lasting longer and ransoms are higher. However, we realise that countries which easily pay ransoms such as Greece and Italy are paying sky-rocketing amounts. French navy forces' policy to systematically attack the SHT seem to be a good way to avoid being attacked by SHT. When the SHT took the Chandlers hostage, they shout at them to know their nationality, as they were scared they might be French²¹³.

However, British ships are now protected by Vessel Protection Detachment (VPD) which are part of national armies, and since, no ship has been attacked. Private guards are a solution when the government refuses to protect the ship. However, the chairman of the European chamber of ship owners (ESC), Jean-Louis Cambon, declared that: "The protection of ships against piracy [...] is a clear responsibility of governments under the UN Convention on the Law of the Sea²¹⁴".

Selva seems to think that at the moment, no better solution than vessel protection, governmental or private, has been found²¹⁵. Nevertheless, the SHT might increase violence to try to reach protected ships.

Recommendations for the EU

The European Parliament should legislate on the use of VPD to protect at least the bigger vessels with the most expensive cargoes. In case of hijack, EUNAVFOR should attack to get hostages back, on the French model²¹⁶, especially because Europeans are the 'finest targets' of SHT. When this action is too dangerous, negotiations should take place, unlike what the British government declares, and ransoms should not be easily paid, as Italy and Greece do²¹⁷, because they attract more pirates-to-be to the lucrative market of hostage-taking.

²¹³Jones, David, "Why didn't the navy save us? The Chandlers reveal how they were captured by pirates under the gaze of British patrol", The Daily Mail, 29.11.2010.

²¹⁴Gros-Verheyde, Nicolas, « Le débat sur les gardes privés s'ouvre en France », Bruxelles2, 15.02.2012.

²¹⁵Selva, *op. cit.*

²¹⁶I am biased.

²¹⁷Also for the sake of not worsening their financial situation in the eurozone...

5 Conclusion

Somali SHT have created for the first time in the history of naval conflict reliability during negotiations. This thesis proved that the EU *could* negotiate with them, as they are not terrorists. The EU *should* negotiate with them in order to free the hostages. Negotiations should only take place if it is too risky for the naval forces to attack the hijacked ship; however, they should not last too long. Indeed, lengthier negotiations have not proven more successful in reducing the amount of the ransom. Their impact on the mental health of hostages is on the contrary significant.

If MSEU don't want to negotiate, they have to tackle the roots of piracy. From the 1st January to the 23rd April 2012, the IMB Piracy Reporting Centre (IMB PRC) reported 51 pirate incidents off the coast of Somalia, 11 hijackings and 1058 hostages held by SHT²¹⁸. Somali pirate incidents dropped 42%, from 97 to 51 incidents this year.

Therefore, we are experiencing a reduction of piracy. This is the consequence of many actions undertaken by different actors. The Force Commander of EUNAVFOR, Rear Admiral Philippe Coindreau, declare: “those results are due to the combination of EUNAVFOR’s action, [...] the use, by the maritime community, of systematic security measures on merchant vessels and high-quality cooperation with other naval forces and independent Navies²¹⁹”. According to Xavier Larreur, this is also partly due to Puntland's efforts in arresting SHT^{220/221}.

Hence, to tackle the roots of piracy, the international community must first keep helping the development of Somalia, which includes supporting the creation of a good governance system. At the same time, EUNAVFOR must be continued after 2014. To alleviate the cost of this heavy military operation, the use of autonomous VPD (aVPD) must be developed, on the Dutch model²²².

²¹⁸<http://www.icc-ccs.org/piracy-reporting-centre/piracynewsfigures>

²¹⁹“EUNAVFOR Force Headquarters handover ceremony”, Press Release, 15.12.2010

²²⁰Larreur, *op. cit.*.

²²¹Gros-Verheyde, Nicolas, « Les forces du Puntland arrêtent 13 pirates », Bruxelles2, 17.01.2012.

²²²Gros-Verheyde, Nicolas, « Les fusiliers marins néerlandais inaugurent le concept de aVPD », Bruxelles2, 7.04.2012.

This will allow to have governmental protection on-board of certain ships, especially the ones transporting food from the World Food Program to Somalia, while navy vessels from EUNAVFOR could patrol to prevent hijackings.

Third, the financial flow fuelling piracy must be stopped. It seems that most of the money comes either from Kenya or from the Somali diaspora, especially located in the UK²²³.

Recommendations for the EU

EUROPOL and INTERPOL must work together to research the entire ransom payment process, including the hawala system and the money laundering process²²⁴.

Finally, SHT must be prosecuted in the region of the Horn of Africa and sent to prison in Somalia. Western nations therefore need to support the government of Puntland in the creation of prisons²²⁵. This is part of DG DEVCO's action to strengthen governance in the country²²⁶. It will also allow to alleviate the burden placed on the shoulders of the Seychelles and Kenya as the international community asked them to judge and condemn the SHT. A stronger stance on prosecution of SHT has also been recently adopted by the international community. On the 19th April 2012, a Kenyan judge sentenced 11 pirates to a 20 years jail term²²⁷. On the 24th of April 2012, the Indian Parliament introduced the Piracy Bill which punishes SHT with life imprisonment or death penalty. SHT will certainly now avoid attacking the French and the Indians.²²⁸

Moreover, once their term completed, the SHT could be more easily reintegrated in his native society, even though he would have to face the population. This is also a good incentive for young people to not join SHT groups.

If we bring the SHT back to Europe, a Somali speaking person needs to be present to help them in the prison and once they leave it. They should not be left alone once their term completed as it happened for a SHT of *Le Carré d'As*²²⁹.

²²³Classified source.

²²⁴Bowden, Anna, et al., "The economic cost of piracy", One Earth Future Working Paper, December 2010, p. 13.

²²⁵Gros-Verheyde, Nicolas, « Le Puntland demande à l'UE et l'OTAN : svp, aidez-nous à détruire les bases pirates », Bruxelles2, 13.01.2012.

²²⁶European Commission, "Somalia Joint Strategy Paper for the period 2008 – 2013", p. 41.

²²⁷Gros-Verheyde, Nicolas, « Les 11 pirates du Nivose condamnés à 20 ans de prison au Kenya », Bruxelles2, 27.04. 2012.

²²⁸Pandit, Rajat, "Finally, India set to get a law to counter piracy", The Times of India, 24.04.2012.

²²⁹Hopquin, Benoît, « L'immense solitude de l'acquitté du 'Carré-d'As' », Le Monde, 11.12.2011.



Captured SHT

Recommendations for the EU

The EU needs to create or participate in the creation of a channel of communication between the ransom payers and national judiciary authorities. It is necessary to gather as much information as possible to open queries.

Piracy is far from being over, as Somali SHT have been a model for SHT in the Gulf of Guinea, where more and more attacks have been reported^{230/231}. A good EU negotiating approach must consequently be created, quickly.

²³⁰“UN says piracy off Africa's west coast is increasing, becoming more violent”, Associated Press, 27.02.2012.

²³¹Capitaine de frégate Nicolas Rossignol, « Piraterie dans le golfe de Guinée : quelles solutions ? », Le Monde, 06.03.2012.



Good luck Barack!

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