



FATF Report

Organised Maritime Piracy and Related Kidnapping for Ransom

July 2011



THE FINANCIAL ACTION TASK FORCE (FATF)

The Financial Action Task Force (FATF) is an independent inter-governmental body that develops and promotes policies to protect the global financial system against money laundering and terrorist financing. Recommendations issued by the FATF define criminal justice and regulatory measures that should be implemented to counter this problem. These Recommendations also include international co-operation and preventive measures to be taken by financial institutions and others such as casinos, real estate dealers, lawyers and accountants. The FATF Recommendations are recognised as the global anti-money laundering (AML) and counter-terrorist financing (CFT) standard.

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EXECUTIVE SUMMARY

1. In June 2010, FATF's Working Group on Typologies (WGTYP) agreed to examine and produce a survey on money flows connected with organised piracy for ransom (PFR) and kidnapping for ransom (KFR). This study was intended to provide an overview of the current problem, and as far as possible, an analysis of money flows, as well as provide issues for consideration on the possible role of the FATF in combating PFR and KFR. Due to the unique nature of this illicit activity and the challenges associated with finding case data, it was foreseen that this would be a challenging project, particularly in terms of identifying and tracing money flows stemming from these illicit activities.
2. The attached report is a successful outcome of this preliminary study of PFR and KFR and is based on a wide-ranging source of data from both open and closed sources. It clearly describes the current challenges related to identifying and pursuing this illicit activity, and in doing so provides the first comprehensive picture of PFR and KFR, attempts to outline the financial implications of these activities, and outlines the work still to be done.
3. PFR and KFR are considered separate categories of serious criminal offences and as such, they are addressed independently in the study: the PFR portion examines the financial implications of piracy as a major proceeds-generating offence, while the KFR section focuses specifically on kidnapping as a means of financing terrorism and as a means to collect funds and support operations of terrorist groups. The PFR report provides a clear overview of the patterns of illicit financial activity associated with PFR, its lucrative nature, and payments in physical cash. The KFR study similarly provides unique insight into the significance of revenue generated from KFR for a number of terrorist groups and criminal organisations and the role of the formal financial sector.
4. In addition to raising awareness of these important issues, the report also highlights some of the challenges associated with identifying, investigating, and tracing illicit flows associated with PFR and KFR. For example, in the case of PFR, once a ransom is paid, it is difficult to determine how the funds are laundered largely because all ransom payments are in the form of physical cash and the money trail generally grows cold after the ransom is delivered. Similarly, although the formal financial system is often the starting point for kidnapping for ransom payments, the physical cash distribution makes it difficult to track the on-going financial flows related to the cases included in this report. Therefore, although the predicate crimes of PFR and KFR are clearly described through cases, the illicit financial flows including the distribution and use of funds are not often clear.
5. Despite these challenges, the study provides unique insight into PFR and KFR and for the first time provides a comprehensive overview of these activities based largely on law enforcement case studies. While there will continue to be challenges associated with identifying and addressing the money laundering and terrorist financing vulnerabilities of PFR and KFR, this report will serve as an important starting point for a meaningful dialogue between interested stakeholders from the public and private sectors.
6. This combined typologies project is a preliminary study of PFR and KFR. The study examines the risks and vulnerabilities PFR and KFR pose to the world's financial system, whether there is a connection between PFR/KFR and money laundering and the financing of terrorism, and lays out the challenges which remain as well as suggests issues for consideration. While it is unclear if maritime PFR

could be considered a subset of the much broader KFR phenomenon, there is a money laundering/proceeds of crime component to each. However, the KFR portion of this project focuses specifically on KFR as a means of financing terrorism and sustaining the operations of terrorist groups. Similarly, the PFR portion of this project examines the financial implications under the Financial Action Task Force's (FATF) money laundering/financial crime mandate. Each is examined here in its own right, and not as a subset of the other.

I. MARITIME PIRACY FOR RANSOM

1. Introduction to PFR

1.1 *Need for the typology*

7. Piracy, kidnapping, illegal restraint, and hostage-taking fall under the Financial Action Task Force's (FATF's) categories of designated serious offences for money laundering. The objective of this Working Group on Typologies (WGTYP) project is to examine the financial aspects of PFR to determine to what extent this form of criminal activity exposes financial systems to risks and vulnerabilities associated with money laundering and the financing of terrorism. The financial impact of PFR has grown exponentially as the number of PFR-related incidents has spread globally, including the number of individuals who are engaged in it and have shown a marked propensity to use violence to seize vessels and their crews. The international community has responded to PFR by deploying flotillas of warships in oceans and seas where the problem is most serious, especially off the coast of Somalia, including the Gulf of Aden, the Indian Ocean, and, most recently, the Arabian Sea. The problem of PFR has also provoked the international community to begin earnest discussions about the financial aspects of piracy with a view toward clarifying the picture of this phenomenon in order to gauge the negative impact it may be having on international financial transactions. With ransom demands and payments for the release of vessels and hostages escalating, there appears to be a definite link to money flows related to both those who are financing piracy and the proceeds of this criminal activity. Despite this, international maritime operations involving warships from dozens of countries remains the primary response against PFR.

8. Through this report, the project team hopes to encourage a more robust and wide-ranging discussion of the ramifications of PFR on the international financial system, specifically, as it relates to a serious money laundering risk posed by PFR. The report defines PFR, particularly from a money laundering/proceeds of crime perspective, and the multi-dimensional threat to financial systems, including increased shipping costs, inflation of insurance premiums for vessels and cargoes, freedom of commerce on the high seas, and the rise in ransom payments themselves. The question for the international community is how it should address the problem of vulnerabilities associated with money laundering/proceeds of crime related to PFR.

1.2 *Scope*

9. This is a preliminary study on Maritime Piracy for Ransom. This section is part of a broader typologies project on PFR and KFR, examining the money laundering and terrorist financing risks and other vulnerabilities that these phenomena pose to the global financial system.

10. PFR is growing rapidly and its activities are becoming institutionalised with respect to entrenched organisational structures and self-financing mechanisms. In 2010, hijackings off the coast of Somalia resulted in 49 vessels captured and 1016 hostages taken, as well as eight fatalities. Another four vessels with 165 crew members were hijacked elsewhere in the world¹. As of 3 March 2011,

¹ Jacob, Allan (2011)

33 vessels were being held, including one which was converted to use as a pirate “mother ship.” A total of 711 hostages were also being held. In the first two months of 2011, seven fatalities resulted from PFR-related attacks. Ransoms are rising exponentially, having increased from an average of USD 150 000 per vessel/crew in 2005 to an estimated USD 5.2 million per vessel/crew in 2010. In addition to the approximately USD 180-238 million reportedly paid in ransoms in 2010², the total costs of PFR-related incidents, including vessel-related costs, depreciation and spoilage of goods, together with increased costs for manufacturers, shipping companies, maritime insurers, and labor costs were estimated to be 7-12 billion per annum³.

11. The objectives of the PFR section of this project are as follows:

- To develop a greater understanding of the ransom demand, payment, and post-incident process and the way it develops, in particular the financial flows to and from the pirates;
- To identify specific financial indicators related to PFR, including money flows, connections to money laundering, and any peripheral nexus to the financing of terrorism⁴;
- To determine where gaps exist in the collective knowledge of the international community on PFR and what might be done to fill those gaps;
- To determine what obstacles exist to “follow the money” in maritime piracy and how the international community can overcome them; and
- To identify the money laundering/terrorist financing (ML/FT) vulnerabilities related to PFR.

1.3 Methodology

12. Thus far, the main response to maritime piracy off the coast of Somalia has been to employ combined international naval forces to protect commercial shipping passing through and disrupt pirate operations in Somali and adjacent waters.⁵

13. The project team used multiple sources to obtain the information compiled in this report. Team members performed an extensive review of PFR-related literature, including press reporting, as well as experts’ studies of the subject. A comprehensive PFR/KFR questionnaire was distributed by the FATF Secretariat in the last quarter of 2010 and the responses to it provided a broad outline of PFR itself and the financial components of piracy⁶. Project team members and other experts, including those in the public

² Economist (2011)

³ One Earth Future Foundation (2010)

⁴ Although questions regarding linkages between PFR and terrorist groups persist, the typologies group was unable to uncover substantial evidence indicating established relationships between PFR and terrorist organizations. This will be discussed in greater depth elsewhere in the report, however. It should also be noted that the possible financial nexus of PFR to international financial transactions is no less important than its actual links to terrorism.

⁵ United Nations (2010), see also United Nations (2011)

⁶ Questionnaires were received from: Austria, Belgium, Canada, Denmark, Germany, Guinea (Conakry), Hong Kong, Indonesia, Japan, Jordan, Lebanon, Mauritius, Netherlands, Norway, Russia, Seychelles, South Africa, United Kingdom, United States.

and private sectors, discussed the challenges from their perspectives and provided presentations at a typologies workshop in November 2010 and subsequent meetings.

14. While the data collected is admittedly a small sampling, it is nonetheless significant because it represents the first time an attempt has been made to collect factual information on PFR in order to develop conclusions relevant to FATF and its associated organisations and entities. The data used, while not encompassing the totality of PFR cases, does provide an adequate picture of both money laundering vulnerabilities of PFR, as well as indicating a potential way forward.

1.4 *What piracy is and what it is not*

15. The UN Convention on the Law of the Sea (UNCLOS) of 1982⁷ defines piracy as: (a) any illegal acts of violence or detention, or any act of depredation, committed for private ends by the crew or the passengers of a private ship or a private aircraft, and directed: (i) on the high seas, against another ship or aircraft, or against persons or property on board such ship or aircraft; (ii) against a ship, aircraft, persons or property in a place outside the jurisdiction of any State; (b) any act of voluntary participation in the operation of a ship or of an aircraft with knowledge of facts making it a pirate ship or aircraft; (c) any act of inciting or of intentionally facilitating an act described in subparagraph (a) or (b). However, there have been cases of acts of violence motivated both by personal enrichment and for political and ideological reasons.⁸

16. Moreover, by definition, such acts take place in maritime zones in which the rights of State sovereignty do not apply: outside territorial waters and coastal seas, within the 12-nautical-mile zone. Acts carried out in internal waters, territorial waters and archipelagic waters are thus not acts of piracy, and fall within the exclusive jurisdiction of the coastal State. The international instruments do not require States to criminalise sea piracy, and stipulates that all States cooperate to the fullest possible extent in the repression of piracy on the high seas or in any other place outside the jurisdiction of any State. In the event that the attacks happen within the maritime zones in which the rights of State sovereignty apply, it will not fall under the scope of the definitions of piracy, but it would be considered as crimes committed at sea, armed robbery or possibly terrorism.⁹ Piracy encompasses both physical capture of cargo from a vessel, as well as obtaining a ransom in exchange for the vessel, crew and cargo. While the majority of this paper is deals with PFR, both forms of piracy have a financial component.

17. Likewise, although most of the current attention on PFR is focused on the Gulf of Aden and Somalia, which is reflected in this project report, PFR also takes place elsewhere in the world and is proliferating.

18. There has been considerable discussion regarding possible linkages between Somali pirates, the al-Qa`ida-affiliated al-Shabaab terrorist organisation and other terrorist groups operating in the Horn of Africa. While no clearly evident link has been established, and, in fact, piracy has been considered to be *haram* (forbidden) under Islam, anecdotes of Somali pirates paying “docking fees” and “taxes” to al-Shabaab and possibly to other terrorist groups were recurrent themes in information collected for this report. For example, as recently as February 2011, foreign press reports indicated al-Shabaab ordered pirates in central Somalia to provide a cut of twenty percent of their profits to the terrorist group. When the pirates refused to do so, al-Shabaab reportedly detained four of the pirates’ investors. Foreign press

⁷ United Nations (1982)

⁸ United Nations

⁹ United Nations

reporting also noted that recent piracy operations have been conducted from areas under al-Shabaab control, potentially indicating less negativity toward piracy.¹⁰ Given the escalating amounts of ransom payments related to PFR, and considering the lucrative returns of KFR as a method of raising funds to finance terrorist organisations, it cannot be ruled out that PFR may become an attractive option to terrorist groups in the future. Regardless of the lack of explicit links to terrorist groups or an established terrorist financing risk, the financial flows related to piracy should certainly be examined to explore the possible vulnerabilities PFR represents to the global AML/CFT regime.

2. Financial Aspects of PFR

19. Piracy has now become a financially lucrative criminal activity. In five years the average amount demanded for each captured vessel has increased from USD 150 000 (2005) to USD 5.2 million (2010)¹¹. All indications suggest ransom payments will continue to rise.

20. PFR is a multi-jurisdictional challenge. In cases involving acts of piracy in waters off Somalia, the pirates and the networks supporting them are Somali. Conversely, the maritime shipping companies, owners of the vessels they use, the crews operating the vessels, maritime management companies, shipping and vessel insurers and reinsurance companies may be based throughout the world. The international nature of the PFR seriously complicates efforts to organise a comprehensive plan to address all of the issues relevant to this problem. Matters are further complicated by the fact that ransom payments can be collected and consolidated almost anywhere. Payments made for the release of crews and vessels can also be spent, converted into different types of financial instruments, or used to purchase real property and other fixed assets in multiple jurisdictions as well. A common ratio that academic experts use in theorizing about the amount of PFR-related monies remaining in Somalia versus the amount leaving there is 60/40. However, even if indeed “only” 40% of ransom proceeds leave Somalia, the actual and potential exploitation of the financial sector by those who commit and support PFR globally still represents a money laundering and terrorist financing threat. For example, based on the USD 238 million in ransoms reportedly paid to Somali pirates in 2010, approximately USD 95 million would comprise the 40% sent out of the country. This is a significant amount of illicit finance relative to the region that could enter the international financial system in a variety of jurisdictions.

2.1 Case Studies

21. The project team compiled information on 13 PFR hijackings and robberies involving Somali pirates operating in the Gulf of Aden, the Indian Ocean and Arabian Sea. Other PFR incidents also included Mexican pirates committing robberies on a lake situated in a border area between the United States and Mexico. In the Somali-related cases, the hijacked vessels included those owned or operated by Norwegian, Russian, Saudi, Ukrainian, Dutch, Danish, and Belgian entities. Some flew the flags of convenience¹² of Liberia, the Dutch Antilles, or the Bahamas. The vessels hijacked ranged in size from a 38-foot sailboat to a “super tanker,” the largest ship ever taken in a PFR hijacking. Ransom demands ranged from USD 1.5 million to USD 35 million. While most hostages were released unharmed after ransoms were paid, at least five were murdered while in captivity. Airdrops appeared to be the preferred means of delivering ransoms, but there was also evidence that ransom payments were transferred through banks, intermediaries, and alternative remittance systems such as *hawalas*.

¹⁰ Radio Bar-Kulan (2011) and Agence France Presse (2011)

¹¹ The Economist *op cit*

¹² The business practice of registering a merchant ship in a sovereign state different from that of the ship’s owners and flying that state’s flag on the vessel.

22. The cases highlighted below illustrate not only the brazen nature of Somali piracy, but also the somewhat uncoordinated nature of the international approach to detecting, interdicting, and deterring hijackings, particularly in the waters of and adjacent to Somalia. The cases underscore as well the disjointed nature of cooperation between shipping companies, maritime insurance underwriters, law enforcement, financial intelligence units, and post-incident investigators in sharing information and ultimately following the financial trail the pirates almost always leave behind.

CASE STUDY #1

M.V. Danica White

The hijacking of the Danish registered and flagged ship "Danica White" occurred off the coast of Somalia on 2 June 2007.

The subsequent process to negotiate a ransom started with a telephone contact from the pirates to the owner of the ship, H. Folmer & Co., demanding a ransom of USD 1.5 million. The Danish Police were notified at the outset. The owner negotiated via phone for one month, but on 2 July 2007, the owner retained a private negotiator. The Danish National Police also contacted the US Federal Bureau of Investigation (FBI) for assistance.

Upon completion of the ransom negotiations, the Danish Intelligence Service, in cooperation with the FBI, arranged for the bulk cash to be obtained from a bank in the United States. It is not known whether a report was filed with the Financial Crimes Enforcement Network (FinCEN), the US FIU, or if it was otherwise notified. An insurance company insured the Danica White, and the insurance company paid for the bulk cash used for the ransom. US authorities provided their Danish law enforcement colleagues with the serial numbers of the bills and also recorded them electronically. However, the Danish FIU never received the serial numbers of the ransom payment.

Arrangements were made to transfer the bulk cash from the US to Denmark. It is not known whether a cash declaration was prepared once the funds arrived in Denmark. This document would have been useful to both Danish Customs authorities and also the Danish FIU.

After negotiations the final ransom paid was USD 723 000. Half was paid in USD 100 notes and the rest in USD 50 notes. The bulk cash was delivered by a privately hired company to the pirates at a hotel in Dubai on 18 August 2007, shortly after which the vessel was released. The Danish authorities lost track of the money at that time. Danish authorities do know that at the time the money physically departed Danish territory on the way to Dubai, no cash declaration appears to have been made. The Danish FIU was not able to give the information regarding the serial numbers to the UAE's FIU, because it did not have them.

None of the marked bills has ever been traced.

Source: Denmark

CASE STUDY #2

M.V. CEC Future

The Bahamian-flagged vessel CEC Future was hijacked on 7 November 2008, off the coast of Yemen. Its pirate captors subsequently sailed the ship to the coast of Somalia.

Two days after the seizure, the pirates brought on board an associate who was introduced as an English-speaking Somali negotiator. This negotiator allegedly used the ship's satellite phone to contact Clipper. Three days later, the pirates phoned the vessel's Danish management firm, Clipper, and demanded a ransom of USD 7 million in US currency for the release of the ship and its crew. Negotiations between the pirates and an intermediary acting on behalf of Clipper were conducted via phone and telefax. Negotiations continued through 13 January 2009, during which time the negotiator and Clipper were in almost daily contact to discuss ransom amounts, the welfare of the crew, and the terms of release. Those negotiations stalled, however, resulting in the CEO of Clipper taking a direct hand in ransom talks. At one point, in order to further negotiations, it was agreed that a separate payment of USD 75 000 would be provided if the negotiator could convince the pirates to accept USD 1.7 million to release the ship and crew. The ransom was eventually negotiated down to USD 1.7 million.

Cash for the ransom was withdrawn from Clipper's account at a Danish bank. The transaction could have but did not trigger the filing of a suspicious transaction report (STR) with the Danish FIU. Clipper logged all serial numbers of the ransom payment to facilitate tracing the cash. Clipper arranged air transportation for the cash but it is unknown whether a bulk cash declaration was filed when the funds were flown out of Denmark. Danish authorities were aware

of the process by which the ransom payment was to be made.

The ransom was air-dropped in a pre-designated area of the Gulf of Aden on 14 January 2009. Clipper's chief of security personally handled this aspect of the ransom process. The vessel and crew were released a short time after the air-drop. Danish authorities lost track of the money following the air-drop. On 16 January 2009, the last Somali pirates left the CEC Future. Following the release of the ship, Clipper wire transferred the additional USD 75 000 to a bank account identified by the negotiator. The insurance firm Channing Lukas & Partners of London had indemnified the payment and reimbursed Clipper.

Post-incident, the vessel was put into safe harbour where American authorities boarded the vessel. Clipper then informed the US authorities of the serial numbers of the bulk cash. Clipper's Security Officer used his personal network to report the serial numbers to a contact in the Danish government. However, the Danish FIU never received this information.

In light of the two cases the Danish authorities are in the process of strengthening the national procedures.

Source: Denmark and US

23. These vulnerabilities can be compounded by non-reporting by FIUs, as well as funding flows into states with lesser-developed or otherwise inadequate AML/CFT regimes. Marked bills could potentially be used as evidence in a money laundering/piracy case if the bills are discovered on a person at a border crossing or someone making a deposit in a cooperating financial institution in an Egmont-member country.

CASE STUDY # 3

M.V. Pompei

Somali pirates hijacked the Belgian vessel Pompei on 18 April 2009. The Belgian government reportedly participated in negotiations for the Pompei's release from the outset, including approximately 160 telephone calls during which ransom payments were discussed. According to Belgian authorities, the ship's insurance company actually paid the ransom. The ransom was paid via a money drop near the vessel. Shortly thereafter, the Pompei and hostages were freed. Belgian authorities later uncovered evidence that the individual who negotiated on behalf of the pirates had connections to Dubai.

During their investigation, Belgian authorities found bank account numbers and identification information related to entities within the United Arab Emirates (UAE). They also identified satellite and cell phone numbers and a Hotmail account. Authorities believe that following the money drop at sea, the money was moved to a location in Somalia, transited through Djibouti and then transferred to the UAE via hawala transactions.

Source: Belgium

CASE STUDY #4

M.V. Marathon

Somali pirates seized the Netherlands Antilles-flagged M.V. Marathon, owned by Western Marine Transport NV and operated by Dutch Cargadoor Amons & Company on 7 May 2009, as it plied the waters inside the so-called "safe passageway" controlled by allied naval forces. One crew member was shot dead and another severely wounded during the hijacking. The owner's insurance company hired a British intermediary who negotiated with the pirates via satellite phone. After a ransom payment of USD 1.35 million was agreed to and was airdropped twenty-five miles off the Somali coast; the vessel and crew were released on 23 June 2009.

Source: Netherlands

2.3 *Obtaining Information on Financial Aspects of PFR*

24. The above cases are illuminating on a number of levels. First, the cases indicate that money is indeed at the core of PFR, and that there is substantial factual information related to negotiations of ransom payments and the payment of ransoms themselves. The project team was able to obtain useful information

to develop a picture of the spectrum of PFR activity, particularly in Somalia's coastal waters and in adjacent oceans and seas. As previously noted, PFR has been globalised, requiring pirates to communicate with a variety of actors – legitimate and otherwise – to plan and execute hijackings, negotiate ransoms, arrange the method of payment, designate locations for air-drops or the transfer of ransoms, and organise the distribution of PFR proceeds to those directly involved and others who support PFR networks. There is growing evidence, too, that Somali pirates are becoming increasingly reliant on the international financial system and other money service providers to move cash off-shore to finance other activities. This information is available, but obtaining the data is often difficult.

2.4 Information on General Typology of Somali PFR and Financial Information

25. Second, what emerges from these cases is a general typology for PFR operations off the coast of Somalia. In short, the generic typology is as follows: a vessel is seized, the owner or management company is contacted, and a ransom payment is negotiated, often by third party intermediaries. The insurance company of the hijacked vessel then arranges for a cash payment. The cash is obtained from a financial institution, which may be the insurance company itself, and packaged for delivery, often being airdropped to a prearranged location. These payments seem to demonstrate two money laundering/terrorist financing vulnerabilities: that these payments often do not result in bulk cash disclosures/declarations and/or suspicious transaction reporting to the FIUs. This occurs either because jurisdictions lack these requirements and/or those facilitating the payments of ransoms are successfully evading these reporting requirements. Once ransoms are paid and the cash subsequently enters Somalia, "following the money" becomes difficult because there are no mechanisms to identify the source and destination of these funds and because the trail goes cold if such payments were not previously reported to FIUs and other AML/CFT authorities.

2.5 The Importance of a Coordinated Domestic AML/CFT Regime and Close Coordination Between Jurisdictions

26. Third, these cases underscore the importance of national coordination by illustrating what happens when there is a breakdown in communication and a lack of a coordinated response between national competent authorities, including law enforcement, regulators and the relevant FIUs. For example, according to EUNAVFOR authorities, it is possible to conduct link analyses of pirate networks since bank accounts, telephone numbers, and other relevant information have been uncovered - but if some competent authorities do not share the information they have with their counterparts, the essential analysis cannot be executed. It is critical to involve all competent authorities in tracking ransom payments, in particular FIUs, law enforcement and other relevant officials charged with detecting, tracing and investigating bulk cash movements. Law enforcement engagement in AML/CFT cases appears to be strong. This cooperation can be strengthened to a greater degree by ensuring consistency in law enforcement providing FIUs with information regarding ransom payments, including listings of serial numbers. This would preclude situations whereby law enforcement authorities are unaware of the PFR ransom process. Any obstacles that would tend to impede full competent authority involvement in PFR cases should be removed, and steps should be taken to enhance law enforcement's ability to exploit international cooperation avenues.

27. Fourth, these cases reflect the importance of international coordination. International law enforcement cooperation in AML/CFT cases appears to be strong. In the above cases it would have been useful for law enforcement or FIUs to have access to the bank account numbers and account holders, the serial numbers of the notes paid to the pirates, and the routing of the payments. This type of information-sharing could be done through the existing secure and expedited channels of international cooperation.

2.6 *The Relevance of an AML/CFT Regime to Combat PFR*

28. Points three and four are indicative of weaknesses in respective national AML/CFT regimes with respect to identifying and pursuing PFR. All jurisdictions should implement the FATF standards effectively. Inter- and intra-governmental cooperation is beneficial and should be encouraged. FIUs should be encouraged in sharing information related to PFR cases and guidance for handling such information should be developed. Ransom payments are often, but not always, paid in the form of physical cash. As learned in the case studies, the ransoms can be airdropped into waters in the hijack area, or can be hand-delivered to an intermediary who subsequently passes it on to pirate groups. The effective implementation of FATF Special Recommendation IX (SR IX) may provide the capability to record or track bulk cash and should be exploited in PFR cases.

2.7 *Engagement with Public and Private Sectors*

29. These cases also illustrate the need for closer coordination between the traditional AML/CFT competent authorities and the maritime industry, including shippers, vessel owners and their management companies, maritime insurance companies, reinsurers, and the private negotiators and cash couriers, the maritime industry employs to handle negotiations and subsequent ransom payments. In a number of the cases above, negotiators, ransom payments, and even information came from different joints of the maritime industry, not from the financial industry, not from government stakeholders, and not from Designated Non-Financial Businesses and Professions (DNFBPs).

CASE STUDY #5

M.V. Sirius Star

Somali pirates hijacked the *Sirius Star*, a crude oil "super tanker" flagged in Liberia and owned by the Saudi Arabian-based Saudi Aramco company on 17 November 2008. At the time, it was the farthest at sea Somali pirates had struck and their prize was the largest vessel ever to be hijacked.

The ship was carrying a full load of 2 million barrels of crude oil — more than one-quarter of Saudi Arabia's daily oil production -worth at least USD 100 million.

An alleged pirate identified as Farah Abd Jameh provided an audio tape to al-Jazeera television on 19 November about terms for the ransoming of the ship. The tape indicated that an unspecified cash ransom was to be delivered to the *Sirius Star*, where it would be counted using machines that were able to detect counterfeit bills. On 20 November, the pirates demanded a USD 25 million ransom and set a 10-day deadline. Another alleged pirate identified as Mohamed Said stated: "We do not want long-term discussions to resolve the matter. The Saudis have 10 days to comply; otherwise we will take action that could be disastrous." The pirates announced on 24 November a reduction of their ransom demand to USD 15 million.

On 9 January 2009, the ship was freed after a ransom of USD 8 million was airdropped at a pre-designated location in Somali waters. Five pirates reportedly drowned after leaving the vessel with their shares of the ransom when their small boat capsized in a storm. The body of one of those pirates later washed ashore with reportedly USD 153 000 in cash in a plastic bag.

Source: Rice, X., Weaver, M., et al. (2008) and BBC UK (2009)

CASE STUDY #6**M.V. Faina**

There is evidence that Somali pirates, and the networks which support them, including the financiers who outfit pirate bands with boats, weapons and communications gear, may have developed the means to select their targets based on knowledge of the cargo a vessel may be carrying. This would provide pirates with an advantage in negotiating a ransom payment when the cargo is of particularly high value.

Approximately 50 Somali pirates calling themselves the Central Regional Coast Guard hijacked the Ukrainian-operated *Faina* was on 25 September 2008, off the coast of Kenya. The ship was heading to Mombasa, Kenya from Ukraine laden with 33 Soviet-made T-72 tanks, stocks of weapons, including rocket-propelled grenades and anti-aircraft guns and quantities of ammunition on board when it was seized. The pirates denied having information about the ship's cargo, but claimed that documents found onboard indicated the arms were destined for Juba, Southern Sudan.

The pirates demanded a ransom and threatened to blow up the ship and its crew, if the ransom was not paid. The ransom amount was reported variously as USD 35 million, USD 20 million, USD 8 million, and USD 5 million in the weeks following the hijacking.

Russia, Somalia, Ukraine, the United Kingdom, the United States, and NATO cooperated in an effort to re-take the ship. Kenya said that it would refuse to cooperate or negotiate with the pirates. An official of Somali Puntland advocated storming the *Faina* with European or American commandos, saying, "[a] military operation has to be taken." A Somali government official in Mogadishu agreed with this sentiment on 1 October, saying, "[t]he international community has permission to fight with the pirates." Al-Shabaab advised the pirates to either "burn down the ship and its arms or sink it" if the ransom was not paid.

The M.V. *Faina*'s mysterious owners paid a ransom of USD 3.2 million on 4 February 2009. The pirates left the vessel early the next day, releasing the *Faina* and her crew after five months.

Source: BBC UK (2008); Independent (2008); Associated Press (2008a); Associated Press (2008b); Agence France Presse (2008) and Gedo-News (2010)

30. These hijackings highlight the vulnerability of large vessels and indicate increasing ambitions and capabilities among the pirates. Those who thought reliance on the naval task forces as a viable safeguard were perhaps stunned by the attack on so large a vessel as the *Sirius Star*, and so far south of Somalia. This presents a security problem for the anti-piracy naval task forces.

31. Attacking larger vessels with high value cargo increases the risks to Somali pirates but successful hijackings also increase the likelihood that vessel owners, shippers, and/or insurers will pay larger ransoms for the release of vessels, cargo, and crews.

32. The *Faina* case also illustrates the difficulty of attempting to address PFR itself and the possible money laundering and countering the financing of piracy in a region where government institutions, particularly law enforcement and judicial structures are fragmented or non-existent. The Transitional Federal Government (TFG) of Somalia in Mogadishu, and the self-proclaimed independent polities of Puntland, and Somaliland have neither the military means nor political inclination to attack the PFR problem directly. Although Somaliland has reportedly brokered MOUs with the maritime industry in an effort to build capacity to trace funds or work on civil litigation against pirates, Puntland authorities have been implicated in supporting or participating in piracy networks.

CASE STUDY # 7**M.V. Kota Wajar**

On 15 October 2009, the *Kota Wajar* was hijacked while sailing north of the Seychelles archipelago on its way to Kenya from Singapore. The *Kota Wajar* was subsequently used by Somali pirates as a mother ship in the 2 October 2009 hijacking of the S.Y. *Lynn Rival* and hostage taking of its inhabitants, British couple Paul and Rachel Chandler. On 28 December 2009, the *Kota Wajar* and its 21 crew members were released after receiving a ransom

payment of USD 3.3 million.

Abson Motors was one of the many importers with cargo onboard the Kota Wajar when it was hijacked. The vessel's owners, Pacific International Lines PTE Ltd, ultimately paid a ransom of USD 3.3 million to secure the release of the vessel, her cargo and crew.

Abson Motors later requested Diamond Trust Bank Kenya to transfer funds to three Singapore registered companies, as compensation for ransom paid to the pirates. However, a judge ordered Diamond Trust Bank Kenya not to release the funds when it was learned they would abet the crime of piracy.

Abson Motors, through the firm of Kenya Muyaa, was then under protest to agree to have the funds released to Habib Bank Singapore, and subsequently remitted to Marine Claims office of Asia, which negotiated with the pirates.

However, because Abson Motors said it was not informed of the alleged seizure of the Kota Wajar, until after its release, a Mombasa judge ruled it would be inappropriate to compel the importer to pay the cash to third parties since it was not established that the money was paid to the pirates.

Source: *Gedo-News (2010)*

33. The initial set of cases noted in this section revolved around ransom payments for large vessels, which are generally insured against the risk of PFR under the model associated with hull and war risk policies. It is believed uncommon for an insurer to write a policy specifically against the risk of piracy. Only a minor, but growing, percentage of vessels is insured against piracy attacks. Most vessels are owned by large companies with significant resources. When their vessels are hijacked, ship owners arrange payment of ransoms to effect the release of their vessel (“the hull”), its crew, and the cargo aboard. The risk of losing the hull and cargo, as well as the threat to human life, is often greater in monetary terms than simply paying a ransom.

34. According to a maritime industry insider, piracy and robbery at sea may be dominated by a perception that large vessels are hijacked and ransoms paid for the release of the vessel and crew, but smaller vessels are also targeted. There is a difference, however, between large merchant vessels, fishing boats, and sailing yachts. The owners of merchant vessels are generally able to pay ransoms with their own resources, or with the assistance of their insurers, who may also be involved in negotiating the payment for the release of the vessel, cargo and crew. In cases involving fishing boats and sailing yachts, the owners often do not have the financial resources to pay ransoms and, particularly in the case of yachts, lack insurance coverage as well. Consequently, persons captured on smaller vessels are likely to be held captive for longer periods of time. See Appendix for case studies involving smaller issues.

3. Financial Flows: Organisation, Financing and Dividing the Ransom

3.1 Financing structures

35. There are two financial junctures comprising the components of PFR: the instrumentalities of the crime, and the proceeds of the crime (*i.e.*, the financing of operations and the use, including laundering, of the ransom payments and other material gain from the criminal act).

36. With regard to the material support of piracy, conflicting theories abound. For every academician who reports ever-increasing sophistication in pirates’ acquisition of technology, there are others who maintain that the pirates are decentralised and do not make use of sophisticated technology. Researchers believe that remittances from the diaspora in the area of USD 1-1.5 billion comprise the majority of contributions to the Somali economy, and that Somalis prefer remittance to other value transfer methods¹³.

¹³ Remarks, Ken Menckhaus, Davidson College, Arlington, Virginia, 23 September 2010

Some theorise that the Somali diaspora provides material support to pirates and pirate groups just as it supports the Somali economy writ large. Others say that there has been no proof of this, and Somali pirates have no need of external financing for their operations, since launching a piracy operation is not costly and money earned from earlier hijackings can be invested in order to finance new attacks. In addition, operating expenses after a hijacking are financed largely on credit, which needs to be paid back once the ransom payment is received. This difference in perspective even varies between jurisdictions that have studied diaspora linkages. All, however, agree with law enforcement, FIU and other practitioners who note that breaking out the illegitimate remittances from the legitimate is a challenge.

37. There appear to be three basic means of financing PFR. In all three cases, the pirate leader would be well-connected and respected in the community, and thus able to draw upon his personal network for protection and problem solving.¹⁴

1. A cottage industry structure in which the whole operation is owned by a single funder. He may lead the group, and, if the hijacking is successful, takes the largest share of the ransom payment.
2. A shareholder or cooperative structure in which individual pirates invest in the operation and share the PFR proceeds. Each pirate is equipped with his own weapon and other gear, and supplies his own food and other necessities. The boat is owned by a member of each “cooperative.”
3. A syndicate or committee structure formed by several investors. Syndicates are responsible for the majority of hijackings. They arm and equip several pirate groups and draw up contracts for PFR operations and the distribution of ransom payments. Successful syndicates can command as much as a 50 per cent share of a ransom payment.

38. The syndicate model has generated the greatest amount of interest among those following PFR, including, governments, law enforcement and naval officials, the maritime industry the intelligence community, and those who conduct research of the PFR phenomenon. The investor structure behind piracy parallels other Somali investor structures.¹⁵ Shares in a given syndicate may cost five to ten thousand dollars each. The committee may have direct access to the pirate leadership, or it may choose to or need to use a facilitator to transport the funds to the pirate group. An agreement specifies the amount of money they are collectively providing; it usually has the name of the individual receiving this money and how much the investors require as a return. A ‘statement of verification of monies’ is also drawn up stating the money each committee member is contributing which again is witnessed. The pirates will issue two types of shares in the venture: “A” shares in which individual receives a percentage of the ransom, these are reserved for investors, pirate leaders and the successful pirate crew, and “B” shares, which entitle the individual to a fixed fee. “A” shares generally go to investors, pirate leadership and pirate crew, and “B” shares are paid to individuals with singular tasks such as armed guards, interpreters, and middlemen. What is of note about this investor scheme is that this setup displays characteristics similar to those employed in conventional organised crime. The pirates must take the financial interest of these local investors into account – so these investors affect the amount of ransom demanded, the length of time that hostages are held, and overall negotiations.

3.2 *The Proceeds of Piracy*

39. Piracy attacks have become extremely lucrative. Although exact figures are not known because of industry secrecy, the average ransom paid in 2008 was understood to be USD 1.25 million. In 2009 it

¹⁴ Hansen, Stig Jarle (2009)

¹⁵ Hansen, *op cit*

increased to approximately USD 3.4 million, with the highest reported ransom totalling USD 5.5 million. The average ransom paid in 2010, was USD 5.2 million, with ransom payments in excess of USD 9.2 million. The total ransom money paid out has increased exponentially. The actual figures are assumed to be higher than these, because the shipping industry does not always report the total ransom amounts accurately. Industry experts believe that revealing actual ransom amounts would drive up subsequent ransom demands and create demand for even more hijackings.

Table 1. Estimates of total ransom money paid to Somali pirates (million USD)¹⁶

2006	5
2007	25
2008	70
2009	80
2010	180

40. The currency choice appears to be US dollars, in USD 100 notes. A recent ransom payment was comprised of in USD 100 notes (90%), in USD 50 notes (7%), and in USD 20 notes (3%). Eighty percent of ransoms are delivered by air drop, as it entails less risk than any other method.

41. There are conflicting patterns of thought regarding the proceeds of piracy. Although no one has exact figures on what happens to the ransoms once paid, many experts believe that a significant amount of the money – from 40-60% – never leaves Somalia. Proportions of the profits are offered to various groups, including the initial investors, payments to local clan chiefs and militia, reinvesting in weapons and equipment, payments to the pirates’ leader and the other pirates, both the initial hijackers as well as the guards.¹⁷

¹⁶ Remarks, Mark Harris, ASI Global, 21 January 2011

¹⁷ Hansen, *op cit*

CASE STUDY # 8

M.V. Victoria

The German owned and managed bulk carrier, M.V. Victoria was hijacked by eight pirates in the Gulf of Aden on 5 May 2010, while on its way to the Saudi port of Jeddah. On 18 July, the eleven crew were released after USD 1.8 million in ransom was paid. The ransom payment was divided as follows:

Position	Salary (in USD)
Officers:	
Commander-in-chief, financial backer	900 000
Interpreter	60 000
Accountant	60 000
Supply officer/logistician	30 000
Attackers:	
First to board vessel	150 000 (and Land Cruiser bonus)
Eight additional hijackers (each)	41 000
Head chef	20 000
Sous chef	9 000
Twenty holders (each)	12 000
Total	1.8m

Source: Badahur, Jay (2010)

42. There are anecdotes that the proceeds of piracy have been used to purchase real estate in Puntland and in a variety of areas in Kenya such as Eastleigh and Mombasa. It is possible that bulk cash has been brought across the border or moved via hawala, but there has been no evidentiary link between real property purchases or companies in Kenya's Eastleigh district or Mombasa, and piracy proceeds.

3.3 *Alternative Legal Strategies*

43. A number of jurisdictions have attempted to implement legal strategies dealing with organised crime or kidnapping in order to investigate and bring prosecutions against pirates.

CASE STUDY # 9

F.V. Thai Union

The Thai Union was hijacked on 29 October 2009. On 7 March 2010, the vessel and crew were released after several months of negotiation and a ransom payment of USD 3 million. As a result of this case, the Investigative Committee at the Prosecutors Office (ICPO) of Russian Federation opened a criminal investigation. ICPO noted that the grounds for the legal action were based upon the Convention on the Safety of Maritime Navigation, according to which Russia could establish its jurisdiction over the crime involving the kidnapping of its citizens on the sea. Domestically, the authorities initiated their case on the grounds of a crime under Part 3 of Article 126 of the Criminal Code of the Russian Federation, which targets abduction by an organised group.

Source: Russia

3.4 Targeted Financial Sanctions

44. One of the mechanisms which have been used in disrupting the financial flows of PFR is targeted financial sanctions, which impose controls on transactions and freezes assets and which are available under both UN and domestic jurisdictions. Targeting financial activity of pirates, especially pirate financiers and instigators, through asset freezes and the seizure and confiscation of the proceeds and instrumentalities of piracy could help to (1) disrupt financial support to pirate organisations, (2) track and seize (either through post-conviction or non-conviction based forfeiture, depending on the jurisdiction) assets enabling pirate operations, (3) prevent pirates from using the international banking system and other formal financial systems, and (4) prevent pirates from using cash couriers and other informal-value transfer mechanisms to transmit funds. The disruptive impact of targeted financial sanctions is generally considered to be most effective when they are implemented globally (*e.g.*, by the UN) since the designated entity cannot as easily turn to third country financial institutions to evade sanctions.

45. UNSCR 1844 (2008), relating the situation in Somalia, was adopted in November 2008 and authorised the UN Somalia Sanctions Committee (the “Committee”) to list individuals and entities that engage in or provide support for acts that threaten the peace, security or stability of Somalia, including acts that threaten the Djibouti Agreement of 18 August 2008 or the political process, or threaten the Transitional Federal Institutions (TFIs) of Somalia or the African Union Mission in Somalia (AMISOM) by force; act in violation of the general and complete arms embargo against Somalia imposed by resolution 733 (1992), as elaborated and amended by subsequent resolutions; or obstruct the delivery of humanitarian assistance to Somalia, or access to, or distribution of, humanitarian assistance in Somalia. UNSCR 1976 (2011), adopted in April 2011, expressed the Security Council’s intention to keep under review the possibility of applying targeted sanctions against individuals and entities those who illicitly finance, plan, organise, or unlawfully profit from pirate attacks off the coast of Somalia, recognizing that individuals and entities who incite or intentionally facilitate an act of piracy are themselves engaging in piracy as defined under international law, if they meet the listing criteria set out in paragraph 8 of resolution 1844 (2008).

46. UN Member States are to impose an asset freeze, travel ban, and targeted arms embargo on those listed by the Committee. The United States has designated the two individuals listed in the Annex of the executive order described below who have engaged in or supported acts of piracy off Somalia’s coast for designation listing by the Committee. To date, the Committee, which operates by consensus, has not accepted these designations.

47. At least one country has established its own capability to impose targeted financial sanctions on individuals and entities involved in PFR off the coast of Somalia, independent of sanctions agreed to by the UN Security Council. The established legal provision provides legal authority to target for sanctions those who engage in or support acts of piracy off Somalia’s coast, including but not limited to those who provide weapons, communication devices, or small boats and other equipment to pirates. The provision blocks the property, and property interests of, specific individuals and entities listed in an Annex, and therefore imposes targeted sanctions only; it does not impose any broad-based sanctions against the people or the country of Somalia.

4. Summary of Findings, Challenges, and Issues for Consideration

4.1 Summary of Findings

- Piracy has now become a financially lucrative criminal activity. The financial impact of PFR has grown as the number of PFR-related incidents has spread globally. With ransom demands and payments for the release of vessels and hostages escalating, there appears to be

a definite link to money flows related to both those who are financing piracy and the proceeds of this criminal activity.

- The primary objective of owners/operators whose vessels have been hijacked is the recovery of the vessel and its cargo intact with minimal harm to the ship's crew.
- The cases highlight the vulnerability of both small and very large ships and indicate increasing ambitions and capabilities among the pirates.
- The cases illustrate weaknesses in respective national AML/CFT regimes with respect to identifying and pursuing PFR. Domestic and international cooperation is essential in pursuing successful investigations of PFR cases.
- There has been shown to be a nexus between piracy off the coast of Somalia and certain jurisdictions as locales for the receipt, transit, and possible repository of ransom payments.
- These cases also illustrate a lack of coordination between the traditional AML/CFT authorities and the private sector which include the maritime industry, shippers, vessel owners and their management companies, insurance companies, reinsurers, and the private negotiators and cash couriers. For example, PFR response companies share information with one another, but are less likely to do the same with competent authorities.
- In some cases, government authorities or law enforcement entities are not informed of ongoing negotiations, or the details of the ransoms that have been paid.
- Active collection and sharing of information is currently ongoing by the military forces working on piracy.
- Although there have been cases where serial numbers of ransom payments were recorded, this information was not fully shared or exploited to its maximum potential.
- Almost all ransom payments are in the form of bulk cash. Once the ransom is paid, the money trail generally grows cold.
- At least one law firm has been exploring the concept of filing civil suits for damages, to recover not only the ransom payment but also to compensate the owner and crew for losses.
- Governments and industry professionals have wrestled with the best ways to engage Somalis in the fight against PFR. Somalia as it currently stands is divided between Somaliland, Puntland and the TFG. Industry and owner-operators have been looking to engage Somaliland, deemed to be receptive to such overtures.
- Both industry and government authorities are interested in reaching Somali clan elders, and determining whether and how they could influence those in their clan from supporting or committing acts of piracy. Clan elders have been identified on a number of fronts of having enormous potential to stop or slow the piracy phenomenon.
- Almost all ransom payments are in the form of physical cash. There is debate about whether pirates based in Somalia use *hawalas*, with some experts suggesting that most hawaladars cannot handle the amount of cash that ransom payments bring in. Some in law enforcement

believe that ransom payments could be moved through money services businesses (including remitters and *hawalas*).

4.2. *Identified Challenges*

- Once a ransom is paid, it is difficult to determine how the funds are utilised/laundered.
- The global response to and dialogue on PFR remains focused on maritime and naval operations rather than on the financial flows related to piracy.
- Open for question is whether the owner/operator also has an obligation to cooperate with law enforcement and other competent authorities in compiling information that would be useful in initiating investigations into PFR cases
- There is a lack of understanding on the part of industry related to the risks that their PFR payments present. The business model and established routines provide little incentive for industry to cooperate in anti-PFR efforts. Industry professionals are cognizant of the owner/operator motivation to resort to “underground” methods of negotiation and payment, noting that there is a feeling of abandonment among them: they pay their taxes, yet their governments and the naval forces plying the waters where PFR is a serious problem will not assist them. Owner/operators simply want to get their vessel back and put it back in service.
- One of the most challenging conditions is the lack of capacity in the regions where piracy occurs. In particular, Somalia has no formal authorities or structures to implement an AML, and Puntland is known for its complicity. The countries surrounding it are also characterised by a lack of capacity: Kenya has no FIU and has not begun implementation of its AML law. The AML/CFT regimes of Ethiopia, Seychelles, Yemen and Tanzania are in varying degrees of development and implementation, while Uganda does not have an AML law at all. Other areas of the world where PFR exists also struggle with AML/CFT regime development and efficacy. The international community has committed to working with these countries to develop capacity, but issues such as capacity building and implementation challenges must also be addressed. Even in countries with traditionally higher capacity, including countries that have a cursory AML/CFT regime, there is a lack of consistency regarding bulk cash reporting, interdiction and investigation, *hawala* and money service business regulation, reporting regimes and investigation.
- There appear to be disproportionate risks for smaller, uninsured vessels, resulting in increased length of captivity and violent resolution.
- Both designating pirates and filing lawsuits for damages requires knowledge of who the target is.
- The potential exists for PFR to be exploited by regional terrorist groups as a source of funding.

4.3 *Issues for Consideration*

48. The following are issues which FATF may wish to consider:

- The FATF could consider encouraging both domestic and international cooperation. While law enforcement to law enforcement cooperation has been shown to be effective, this work

could be enhanced with the involvement of all competent authorities which can make contributions such as link analysis in identifying PFR cases in a comprehensive fashion. Guidance on improving collaboration between national and international agencies would greatly benefit PFR investigations and could encourage all relevant competent authorities, including FIUs, to be systematically involved in pursuing information related to PFR cases.

- Based on the above cases, as well as others, the FATF could consider developing guidance and red flags to detect and pursue PFR for both private sector financial entities and competent authorities.
- Countries may wish to consider adopting national action plans with the focus on collecting and sharing information to develop evidence leading to prosecutions on PFR. These national plans could be supported by international law enforcement and competent authority co-operation with the objective of detecting and dismantling the flows of money related to PFR.
- The FATF could consider whether privacy or other obstacles hinder an effective and prompt participation of insurance companies in the work to fight PFR.
- Competent authorities located in regions where there are a high number of PFR cases could consider a review of their procedures to ensure information related to possible PFR cases is being handled properly.
- Consideration could be given to a having a competent authority record and maintain a database of serial numbers from bills used in a ransom payment.
- Outreach to and engagement with the maritime industry could be considered, as could the development of guidance. At present, information on the payment of ransoms by shipping and insurance companies is widely dispersed and largely inaccessible.
- Consideration could be given to direct engagement with the low capacity countries, particularly related to the unique challenges posed by predominantly cash-based economies.
- The FATF could explore governments' different policies regarding piracy and ransom, including those that have a no-concessions policy.
- Consideration should be given to developing mechanisms that would allow law enforcement officials to utilise data from a variety of sources to include the military and intelligence agencies. To this end, consideration could be given to establish a resourced collective/task force to enhance information sharing. Consideration could also be given to including private sector participants.
- Consideration could be given toward developing guidance regarding the collecting and sharing of information regarding cash movement and recording of denominations and serial numbers of ransom money.

II. KIDNAPPING FOR RANSOM

1. Introduction to KFR

1.1 *Need for the Typology*

49. Kidnapping for ransom (KFR) as a means of financing terrorism has been identified by law enforcement agencies worldwide as a significant source of revenue for terrorist groups often operating in politically unstable countries where central authority is often weak, public and private corruption is endemic, and the social fabric of those nations has unraveled to a considerable degree. Millions of dollars in ransom payments have been collected by terrorist organisations which use networks of facilitators to move the proceeds of KFR through alternative remittance systems, but, more ominously, through legitimate financial institutions such as banks and exchange houses. This exploitation of the international financial system to launder monies derived from the crime of KFR represents a significant threat to the world financial system and illustrates a serious vulnerability in the system itself.

50. Many of the terrorist groups involved in KFR have been listed by the United Nations or designated as terrorist organisations by individual countries and other entities. Though KFR is often viewed as a “low risk” and “high reward” operation, when it involves the taking of several victims by a terrorist organisation, KFR may in result in greater risk and, therefore, create the rationale for terrorists to maximise ransom demands for the release of hostages. The international community’s success in cutting off other sources of funding for terrorist groups has made KFR more attractive as an alternative means to finance their operations.

51. For these and other reasons, the FATF previously identified KFR as a terrorist financing risk.¹⁸ Due to the general nature of the FATF’s Terrorist Financing Typology Report, however, it was inappropriate to explore in depth within the report the nature of KFR and the extent to which it represented a significant vulnerability.

1.2 *Scope*

52. This is a preliminary study on KFR. This section is part of a broader typologies project on maritime piracy, which is examining the money laundering and terrorist financing risks and other vulnerabilities that these phenomena pose to the global financial system.

53. In conducting the preparatory research of and subsequent examination of the comprehensive Piracy/KFR questionnaire sent to FATF member jurisdictions, it became evident that there is also a significant money laundering aspect related strictly to criminal acts of piracy and KFR which have no connection to terrorism itself. Similarities were also noted between the collection of ransoms and payments in criminal KFR cases and KFR associated with terrorist financing. This report on KFR, while referencing these criminal activities, is focused primarily on KFR’s nexus to terrorist financing.

¹⁸ FATF (2008)

54. **The objectives of the KFR portion of this typologies study are:**

- To gain an understanding of the relative importance of KFR as a funding source for terrorist groups;
- To identify the financial flows/mechanisms associated with KFR;
- To identify how ransom payments are used/dispensed when received by terrorist groups;
- To explore the money laundering and terrorist financing vulnerabilities associated with KFR for the international financial system; and
- To suggest issues for further consideration resulting from this study, including options for mitigating the risks associated with KFR.

1.3 Methodology

55. The project team utilised a variety of sources in constructing the KFR portion of this report, including open source reporting, written and electronic press reports, presentations by FATF members and/or representatives of FSRBs to the project team, as well as consultations with the international diplomatic community, private businesses, academicians and KFR operational experts. In addition the project team developed and circulated a comprehensive questionnaire that focused on both PFR and KFR.

56. This section also contains a statistical summary based on responses to the comprehensive PFR/KFR questionnaire. The following FATF members provided responses to the questionnaire: Austria, Belgium, Canada, Denmark, Germany, Hong Kong, Japan, Norway, Russian Federation, South Africa, the United Kingdom and the United States. The following non-FATF members provided responses to the questionnaire: Indonesia, Jordan, Lebanon, Republic of Guinea, and the Seychelles.

57. The data collected through the questionnaire represents a sampling of the data available on the subjects of PFR and KFR. This sampling does not purport to be scientific, but the Project Team believes it is sufficient to draw some broad conclusions about PFR and KFR that may prove useful in FATF's deliberations on these subjects.

2. The Financial Aspects of Kidnapping For Ransom

58. Kidnapping is the confinement without legal authority of a person by one or others, against the will of the confined person. In so doing, the perpetrator or perpetrators often seek some political, financial or other advantage or benefit, such as the payment of a ransom (KFR) or the release of imprisoned compatriots. As such, KFR can be considered a type of hostage taking¹⁹, which the 1979 United Nations International Convention Against the Taking of Hostages (Hostages Convention) binds signatories to take specific steps to adopt effective measures for the prevention, prosecution, and punishment of, as manifestations of international terrorism.

¹⁹ Article 1 of the Hostages Convention declares that “[a]ny person who seizes or detains and threatens to kill, to injure or to continue to detain another person (hereinafter referred to as the “hostage”) in order to compel a third party, namely, a State, an international intergovernmental organization, a natural or Juridical person, or a group of persons, to do or abstain from doing any act as an explicit or implicit condition for the release of the hostage commits the offence of taking of hostages (“hostage-taking”) within the meaning of this Convention.”

59. The two primary motives for terrorists to resort to KFR are financial and political. Ransoms resulting from KFR enables terrorist groups to recruit and indoctrinate new members, acquire sophisticated weapons and communications gear such as satellite phones, establish training camps and support units, including “safe houses” and transportation operations, as well as provide financial resources which can be used to bribe government officials, law enforcement personnel and others who can be of use to a terrorist organisation in conducting its nefarious activities. The proceeds of KFR can and probably have been used to finance “mass attacks,” usually carried out by suicide bombers or through the surreptitious placement of improvised explosive devices (IEDs). The mass attacks are usually tied to the political motives of terrorist groups. Their intent is to sow fear by exposing the inability of central authority to protect civilians against indiscriminate attacks. This sort of violence, especially where governments are weak or ineffectual, often succeeds in wringing concessions from local authorities, including the release of prisoners belonging to a particular extremist group.

60. The financial dimensions of KFR cannot be trivialised, however. There is ample evidence that the flow of funds associated with KFR is significant and represents a money-laundering threat to international financial institutions. For example, al Qa’ida in the land of the Islamic Maghreb (AQIM) is estimated to have collected at least USD 65 million in ransom payments since 2005²⁰. It has been reported that the average ransom payment for the release of a hostage taken by AQIM between 2008 and 2009 was USD 6.5 million²¹. This fact alone should raise serious concerns about terrorist financing and the potential vulnerabilities which may arise for the international financial system.

61. A kidnapping can occur in one jurisdiction but the ransom may be paid in another. A further complicating factor is the multitude and variety of actors that can be involved in ransom payments. Based on research and case studies, these can include family members, non-governmental organisations (NGOs), multi-national businesses, insurance companies, government entities and third party intermediaries.

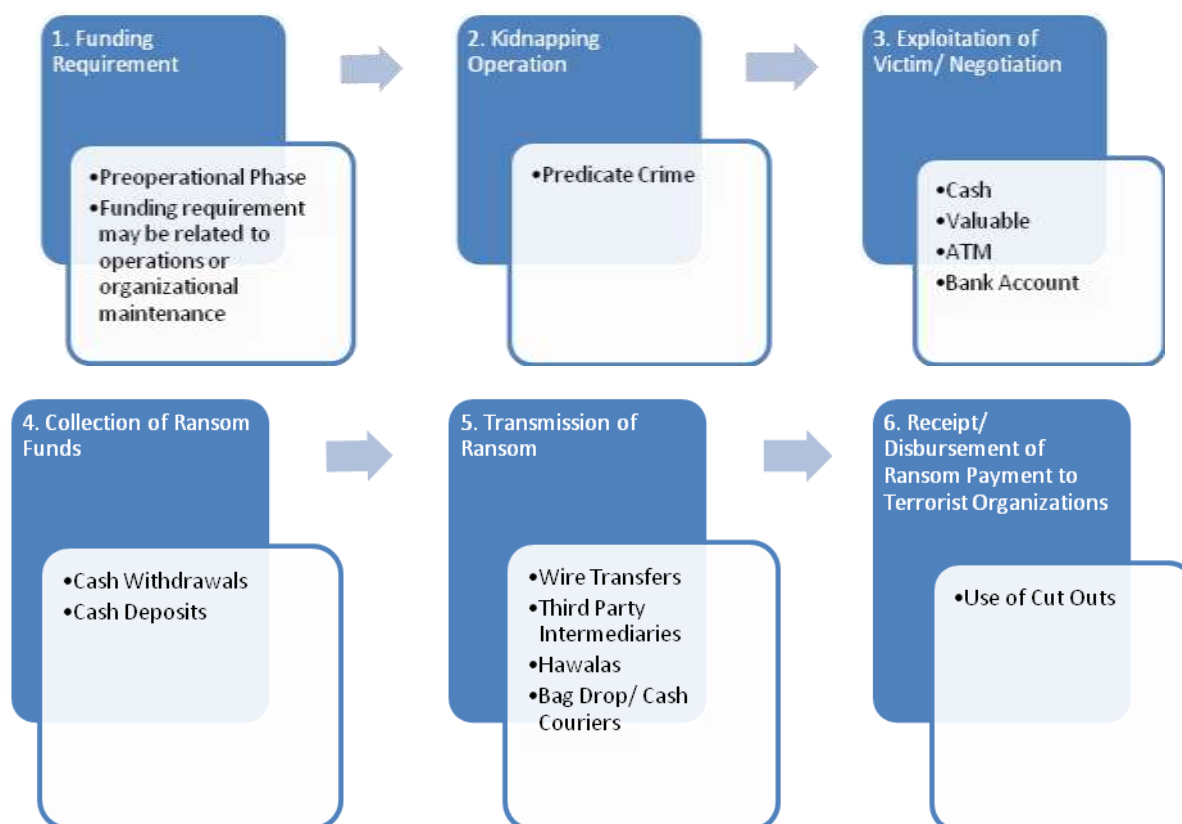
62. In many cases, individuals, families and private businesses may choose to deal directly with the kidnapers out of fear that harm may come to the hostage(s) if the authorities are notified. In such cases, ransom payments are deposited in bank accounts designated by the kidnapers or the money flows through alternative remittance systems such as *hawalas*. Third party intermediaries are often employed as negotiators/couriers. Depending on the circumstances, competent authorities may be completely unaware of the involvement of third party intermediaries in negotiations of a KFR case and the activities of the third party in facilitating a ransom payment. Without the involvement of law enforcement or specialised hostage intervention units in the kidnapping, terrorists involved in KFR become emboldened because of the absence of dissuasive measures and/or post incident investigations. This type of situation minimises the cost/risks to terrorist groups and serves as an incentive to expand KFR operations. It should be emphasised that if a terrorist group knows an individual, business, or other entity is willing to pay ransoms, the greater the likelihood that those who pay will be targeted again.

2.1 *Generic Financial Stages of a Kidnapping for Ransom Operation*

63. There is no standard template for Kidnappings for Ransom. The variables include but are not limited to the specific terrorist group, the geographic area of operations, the nationality of victims, the effectiveness of domestic security services and law enforcement, the nature of the financial system to be utilised, etc. The following generic schematic is offered as one way of visually understanding the basics of a KFR operation, and at what stages traditional AML/CFT tools may be productively utilised.

²⁰ EU/US Consultations on Terrorist Financing, December, 2011

²¹ EU/US, *Op Cit*



64. The problem of KFR is indeed a worldwide phenomenon. Terrorist groups operating in the African Sahel, the Philippines, Pakistan and Afghanistan, and other regions are involved in hostage-taking to collect ransoms. The project group has assembled a sampling of cases which may illustrate the extent of this problem and the magnitude of funding generated through various ransom payments.

CASE STUDY #1

In January 2009 a group of four Western tourists (of German, Swiss, and U.K. nationalities) were kidnapped while on holiday in West Africa. The tourists were returning home from a cultural festival when their convoy of SUVs was attacked. Although the first vehicle managed to escape, the second containing the tourists was disabled by gunfire. The hostages were immediately taken to neighboring Country B to evade local security forces. While some sources speculate that a nomadic rebel group seized the tourists and then sold them to Al Qa'ida in the Land of the Islamic Maghreb (AQIM) for an undisclosed figure, it is clear that AQIM made the initial demand for ransom. AQIM initially offered to swap the U.K. hostage for the release of a member of their group who was under arrest in Great Britain. The offer of a prisoner swap was then followed by a demand for a ransom of EUR 10 million, or approximately USD 13 266 500.

The U.K. refused to pay the ransom or release the detainee. After issuing a warning, AQIM executed the U.K. national and issued a follow-up ransom demand of EUR 300 000 (USD 446 300) for his remains. The ransom was never paid. The three other hostages were later released at different times. Although both governments declined to comment on the specific terms of the release, sources speculate that a ransom was eventually paid. One of the governments did indicate, however, that its annual budget of USD 275 000 for this type of event had since been depleted. Approximately five years before it reportedly paid USD 188 000 to the same group for the release of four nationals.

In a separate incident, AQIM was responsible for kidnapping two foreign nationals. The victims were abducted while working for a relief agency in Mauritania. The group followed a similar technique that was employed when negotiating for the release of a previous hostage. AQIM bargained for the release of a group leader who was jailed in a foreign

country. According to multiple media reports, the government of the two captives, paid out EUR 3.8 million (USD 5.45 million) to an intermediary. The intermediaries seized a large portion of the ransom, leaving AQIM with approximately EUR 1.5 million (USD 2.15 million). At a later date, another EUR 3 million (USD 4.3 million) was paid with approximately EUR 2.3 million (USD 3.3 million) paid to AQIM.

The hostages were released after a final payment was made, bringing the total to EUR 8 million. In addition, the AQIM leader and several of his followers were released from jail.

Source: *United Kingdom*

65. If US and EU estimates of AQIM's annual budget of EUR 15 million are accurate, then this single KFR operation accounted for over half of AQIM's annual budget.

CASE STUDY #2

A founding member of the terrorist group Al-Harakat Al-Islamiyyah, also known as the Abu Sayyaf Group (ASG), was sentenced in December 2010 by the United States to 23 years in prison after pleading guilty to four counts of hostage taking in the 1995 abduction of 16 people in the Philippines.

According to the guilty plea, the convicted kidnapper was the general secretary of the ASG, or second-in-command, under the Amir (leader) of the ASG, at the time of the hostage taking. The Amir of the ASG had directed that members of the group engage in kidnappings for ransom in order to raise funds for the group and to raise the public's awareness of the group's purpose. The ASG was subsequently designated as a foreign terrorist organisation by the US Secretary of State, and remains so designated today.

The kidnapper admitted, as part of his guilty plea, that several armed members of the ASG kidnapped 16 individuals, including four US citizens, one US permanent resident alien and 11 Philippine citizens, in the rugged area around Trankini Falls, near Lake Sebu, in southern Mindanao, in the Philippines. The hostages, including six children, were forced to march up a mountainside. Some of the adults had rope tied around their hands or neck.

The kidnapper informed the hostages that they were being kidnapped for ransom, and he individually questioned some of them to determine their nationality and the amount of ransom to be demanded. Later that same day, the kidnapper decided to release four of the 16 hostages to allow them to collect a ransom totaling at least one million Filipino pesos (equivalent to about USD 38 000, at the time). He threatened that if the released hostages told anyone about the kidnapping, those remaining in captivity would be killed.

The kidnapper and his group then forced the remaining hostages to continue marching up the mountainside to evade capture by the Philippine authorities. Four days later, on 31 December 1995, the kidnapper and his group released the remaining hostages after a ransom was paid. The convicted kidnapper and certain members of his group were caught only through the rigorous efforts of local law enforcement in tandem with the respective FIU which helped record and trace large bulk amounts of cash entering the banking system

Source: *Philippines*

66. Without international cooperation among law enforcement members, FIU assistance, recording the serial numbers of the ransom payment and the US designation process, this successful capture and prosecution might not have been possible.

2.2 Differences and Similarities between KFR by Terrorist Groups and Criminal Organisations

67. The following cases are focused on kidnapping by criminal elements; primarily of locals by locals. One of the primary differences is the lack of political demands that are associated with criminal related KFR. Another difference is the level of operational and financial complexity between local criminal KFR and terrorist finance related KFR.

68. As the cases below illustrate, a majority of criminally related KFRs are focused on locals and nationals. The ransom demands are usually lower and there is less risk involved in these operations as they

usually do not receive as much attention from the media, government, etc. This is one of the reason groups often target locals as a means of raising revenue.

69. The kidnapping of a foreigner comes with an increase in potential revenues but it also comes with an increased risk. The demands of terrorist-related KFR often differ. Demands may start out politically motivated based on the attention the case can generate, however they may transition to financial benefits as the hostage situation progresses. Terrorist organisations may conduct a KFR operation solely to produce revenue.

70. Another difference between criminal and terrorist finance related KFR is that financial success may lead terrorist organisations to profile certain nationalities or organisations based on the belief the operation is worth the risk as a ransom will likely be paid for the hostages release.

71. Although the examples below of KFR were not linked to terrorist financing, they are nevertheless instructive. In the jurisdiction where these cases (and others) occurred, there were a number of consistent points throughout the cases. Namely, the kidnappers utilised the formal financial sector, and not the use of underground banks, hawala, or bulk cash smuggling. The jurisdiction's police informed the financial institutions being used by the kidnappers so they could better record and track the money and find the kidnappers in the act of moving the ransom proceeds. These cases also illustrate that in criminally related KFR the ransom demands tend to be lower, and that involvement of foreign nationals tends to increase both the complexity and the risk to criminally focused KFR operations.

CASE STUDY #3

Criminal gangs are often involved in KFR. The targets are usually local people whom they have had under surveillance or they are aware of the individual's financial situation. However, it is not uncommon for criminals to seek out foreign national with the expectation of a larger ransom payment.

In 2005, a resident of country X was abducted and held for ransom by several non-nationals. The kidnappers demanded a ransom of JPY 10 million (approximately USD 98 000) from family members for his release. The ransom was negotiated to the lower sum of JPY 1 million (USD 9 800). Following the kidnappers' instructions, a relative of the victim paid the ransom into an account designated by the kidnapper. It is unknown whether there was any payment or reimbursement by an insurance company. The victim ultimately escaped. Later the same day, two of the kidnappers were arrested in the act of withdrawing the ransom payment at an ATM. While investigating the kidnapping, police found that one of the kidnappers had participated in an earlier kidnapping where he also was paid JPY 1 million (USD 9 800).

In a similar case, with a nearly identical method of kidnapping and ransom demand, the kidnappers demanded JPY 45 million (approximately USD 440000), which was paid by relatives. The kidnappers released the victim, and deposited JPY 7 million (USD 68 000) of the ransom into a bank account under a fictitious name. Ultimately, five suspects were arrested.

A third kidnapping took place years later, in the same manner. This time, the victim made more than a dozen phone calls asking his relatives to pay the ransom into a specific bank account. The victim apparently owed the kidnapper more than a million yen, but the kidnapper demanded only JPY 100 000 – which the relatives paid. The victim was released two days later, and the next day four suspects were arrested.

While traveling in different country a national of the reporting jurisdiction was assaulted by four armed men as he was driving. The ransom was demanded from the victim's family. However, the family refused to pay because they did not have the money. The victim was subsequently released. This occurred less than a year ago and is still under investigation.

Source: Japan

CASE STUDY #4

An Iraqi known to workers in an American NGO convinced them to travel to a specific location in Iraq as part of their NGO work. He accompanied them on the trip. During the trip, an American NGO worker was kidnapped, along with the Iraqi who arranged the travel. A relative of the victim received ransom demands, threats to transfer the hostage to a more radical group, and threats to kill the hostage.

Negotiations proceeded to a rapid conclusion in a matter of days, and a (USD) six figure ransom was agreed upon by both parties. A relative of the hostage attempted to wire transfer the money from a US bank to the Central Bank of Iraq. The person making the transfer informed the teller that the large sum was for a ransom payment in Iraq, triggering the filing of a suspicious transaction report.

While the negotiation phase was underway, investigation revealed that the Iraqi who had arranged the travel (and kidnapping) of the American had previously attempted to extort money from a business associated with a group designated as a Foreign Terrorist Organization (FTO) under US law. The kidnapping plot was hatched in an effort to deal with the financial liabilities he had incurred when the extortion was discovered. The Iraqi in question is also believed to have also provided some forms of support to the organisation which would be proscribed under US FTO laws.

The first attempt to transfer the ransom from the US to Iraq was frozen while the bank sought additional information. A law firm associated with the bank sought government guidance on factors of concern. They were advised that any ransom payment destined for Iraq ran the risk of financing terrorist organisations and, under certain conditions, participants could face civil or criminal liabilities. Little additional information was received from the law firm, on any subsequent efforts to transfer the funds. A (USD) six figure ransom was eventually paid, and the hostage was released. The Iraqi originally responsible for the plot was also "released" at this time, and arrested by local police.

Although this kidnapping was essentially a criminal act, it was perpetrated by someone with connections to a terrorist group, and could have resulted in funds going to the group. Anti-money laundering measures were able to shed some light on the effort to raise and transfer the ransom funds, but were not able to ultimately block it as apparently the relative found alternative means which did not trigger any reporting of suspicious activities.

Source: *United States*

72. Additional case studies are referenced in the attached annex. These cases highlight a number of separate KFR related issues, including the need to increase the cost/risk calculations of terrorist related KFR to the point that they are effectively dissuasive, the challenges that investigations face in addressing international KFR operations and the important role that suspicious transaction reporting and proactive involvement of FIUs can have in successfully resolving KFR cases.

2.3 *The Relative Importance of KFR to Terrorist Groups*

73. According to law enforcement sources, the relative importance of Kidnapping for Ransom to any particular terrorist group varies, but KFR is always a consideration when funding is required. The relative importance of KFR not only varies from terrorist group to terrorist group, it also varies based on the level of development of the particular terrorist group, the nature of the local economy in the terrorist group's area of operation, funding levels required to maintain the organisation and conduct operations, as well as other factors.

74. In a typologies study conducted by the Asia Pacific Group on Money Laundering in 2010, a number of jurisdictions including Afghanistan, Pakistan and the Philippines, noted that KFR was a significant source of revenue for terrorist organisations. The report also noted that KFR in the Federally Administered Tribal Area (FATA) was increasing²². In this respect it is instructive to compare two

²² APG (2010)

terrorist organisations designated by the United Nations' 1267 Committee, al-Qa'ida in the Arabian Peninsula (AQAP), and the Organization of al-Qa'ida in the Islamic Maghreb (AQIM).

75. According to EU and US government experts, the scale of funding that AQAP needs to maintain itself is likely much lower than other groups because AQAP does not have the large administrative costs associated with maintaining a large social welfare network like Hamas or Hezbollah; instead, AQAP almost exclusively focuses on carrying out operations. Because of adverse cost/risk factors, AQAP has not engaged in systemic KFR operations as a means of terrorist finance. AQAP remains extremely dangerous, but efforts to track and stop the flow of funds to the group are more difficult because the volumes are smaller and primarily move through alternative remittance systems such as hawalas which produce fewer reports and are more difficult to track. Both the operational capacity and attempts to interdict funding to AQAP would become even more problematic, if for some reason the costs risks associated with KFR as a terrorist financing tool were to change to the point where KFR became institutionalised.

76. By contrast, EU and US government experts agree that KFR is now AQIM's primary source of revenue which is estimated at approximately EUR 15 million²³. KFR operations have provided increased financial resources to AQIM's Sahel-based components in recent years which has in turn, lead to a corresponding increase in AQIM's ability to conduct significant terrorist attacks²⁴. While US government experts estimates that the average ransom paid to AQIM is approximately one million USD per hostage, which is then used by AQIM to fund operations, recruitment, organisational maintenance and attacks, the case studies examined by the project team indicate that this figure may be low (see case study #1).

77. In addition to the macro level impact that KFR has on a terrorist group's funding, it appears that even micro level, single ransom payments can have a significant impact on a terrorist group's funding and ability to conduct operations. If the EU/US estimates are reasonably accurate, then a single ransom payment of USD 1 million comprises approximately 5% of the group's total budget. As noted earlier, an AQIM KFR operation with multiple hostages reportedly provided EUR 8 million, or over half of AQIM's estimated annual budget.

78. More generally, if a comparison of typical ransom demands such as that noted in case study #6 of USD 1.6 million is compared to what we know of the budget of al-Qa'ida in Iraq, in the Anbar province in 2005 and 2006, a similar situation presents itself. In this case, the group's overall budget was USD 4.5 million²⁵. A single ransom of 1.6 million would represent approximately a third of the yearly revenue for AQI in Anbar Province.

2.4 Disbursements of KFR Proceeds

79. Quantitative data on disbursements of funding received by terrorist organisations are difficult to secure. Furthermore tracing the specific ransom payments to specific terrorist attacks are likewise problematic. Nevertheless, it is possible from both public statements and research on captured financial records from terrorist groups to get at least a general sense as to how terrorist groups utilise and disburse funding from KFR and other sources.

80. In Afghanistan, Taliban spokespersons have clearly articulated the importance of KFR to their organisation and how KFR proceeds are used. In an interview of Taliban representatives conducted by the

²³ EU/US Consultations on Terrorist Financing, *op cit*.

²⁴ See Hansen, Andrew; Vriens Lauren (2009)

²⁵ See National Defense Research Institute (2010)

UK Newspaper, *The Telegraph*, ransom payments were used to fund operations against coalition forces in Afghanistan and to train and recruit operatives for attacks overseas²⁶:

...three Taliban fighters involved in the conflict with the British in Helmand province said that USD 10 million cash handed over in two installments had been used to boost operations in Afghanistan and abroad.

"It was a God-sent opportunity," said Mullah Hezbollah, 30. "It has helped us to multiply our stockpile of weapons and explosives to wage battle for at least a year or so."

He said the money had been paid in August, shortly before the Taliban's fugitive spiritual leader, Mullah Omar, ordered Operation Nusrat (victory), an offensive against coalition troops which ran throughout the Muslim holy month of Ramadan, which finished last week. . During the operation, four British soldiers were killed in southern Afghanistan, including Major Roberts.

"We were really concerned when we received orders to launch Operation Nusrat, because we had hardly any funds to buy weapons to carry out such a major offence," said Mullah Hezbollah. Thanks to the ransom payments, however, the operation proceeded with "full vigour".

Hezbollah, however, gave what appeared to be precise details of the transactions. "They gave us USD 7 million as a first installment the day we released 12 hostages, and the remaining money was paid soon after we released the remaining hostages on August 31," he said.

His comrade, Mullah Mohibullah, 32, disclosed that some of the ransom funds were being used to train volunteers from Britain and America to carry out attacks in their homelands. "We want to destroy them, the way they have destroyed our country," he said. "Most of these youths are suicide bombers."²⁷

81. Perhaps the most detailed data on expenditure publicly available are from captured financial documents from al-Qa`ida in Iraq analyzed by the Rand Corporation. While such data is specific to AQI, at a time when it was highly developed in a particular region in Iraq, the expenditure data is nevertheless instructive. The breakout of revenue is as follows²⁸:

Funding AQI Operations in other regions	56%
Administrative Costs	11%
Military Operations	10%
General Treasury	9%
Payroll/Medical	5%
Border Activities	2%
Security	1%
Shura Council	1%
Media	1%

²⁶ The Telegraph (UK) (2007)

²⁷ The Telegraph (UK), *op cit*

²⁸ National Defense Research Institute (2010), *op cit*

2.5 *Vulnerabilities associated with KFR*

82. As noted earlier, terrorist related KFR presents a challenging problem to the global financial system and the international community. To understand the risks and vulnerabilities in a more comprehensive way, this report categorises KFR risk in the following ways: general risks and vulnerabilities, money laundering and terrorist financing risks and vulnerabilities, and macroeconomic vulnerabilities. This report will briefly explore the nature of these risks.

3. **Specific KFR Risks/Vulnerabilities Related to Components of an AML/CFT Regime**

3.1 *Financial/Regulatory Risks and Vulnerabilities*

83. In reviewing the KFR cases provided to the project team, it became apparent that the formal financial system and banks in particular, played a surprisingly prominent role. Oftentimes this is because those with the ability to pay a large ransom are located in developed areas with sophisticated banking systems. The cases illustrate that banks may be at risk for placement and transmission of ransom payments. These cases, also noted, that STR/SARs are often filed, which often had a significant impact on a successful resolution of a KFR case. This is contrasted with the 2010 APG Typologies report which highlighted the use of hawalas and avoidance of the formal financial sector due to AML/CFT controls. The project team believes that both the formal and informal sectors could be used based on local conditions and situations, but this is an issue that probably merits deeper study. Such a study could be beneficial in developing a more comprehensive understanding of what financial entities are used under what conditions, as well as the development of guidance targeting each specific sector.

3.2 *Law Enforcement Authorities*

84. Law enforcement authorities play a critical role in identifying and pursuing KFR. The cases examined by the project team, highlight the need for financial investigative skills and good working relationships with the financial sector and the FIU. The lack of this coordination would represent hamper a jurisdiction's capacity to address the ML/TF vulnerabilities associated with KFR. Similarly due to the international dimension of most terrorist financing related KFR operations, often times that there are multiple jurisdictions involved in addressing a KFR incident.

85. In practice such international cooperation varies widely and can therefore present a significant challenge to law enforcement efforts to combat KFR operations, particularly as these events often take place with compressed time frames that do not lend themselves to the development of operational cooperation and coordination. The groundwork needs to be in place and a foundation of cooperation in existence for best results in investigations and prosecutions.

86. Within the operational chain, FIUs can play a critical role in identifying KFR, particular when there is advanced notice of ransom payments. A representative from the FIU in one jurisdiction noted that ransom payments are often collated and converted in to cash for onward transmission to primarily pirate organisations. The FIU representative noted that any interaction with the reporting entity to trace these funds could result in non-reporting and/or driving the parties to use informal value transfer systems.

3.4 *Special Recommendation IX/Cash Couriers*

87. Not surprisingly cash plays a significant role in KFR. Often times once a ransom payment is delivered with physical cash, cash couriers are used to move these funds to the terrorist group. These couriers can range from professional third party intermediaries to members of the terrorist group that are receiving the funds. While such courier operations would generally be covered by SR IX, the FATF could

consider whether the recommendations could be more effectively implemented to deal with terrorists, individuals or groups that use KFR as a source of funds.

4. Summary of Findings, Challenges, and Issues for Consideration

4.1 Summary of Findings

- KFR is a global problem, involving many entities which results in the need for broad international cooperation.
- Consideration could be given to improving the effectiveness of cooperation among foreign law enforcement authorities (LEA) (*e.g.*, developing sources of information, gathering intelligence, conducting undercover operations, executing search warrants or interviewing witnesses) and FIUs. Regarding KFR investigations.
- The international community's success in cutting off other sources of funding for terrorist groups has made KFR more attractive as an alternative means to finance their operations.
- KFR appears to be a significant source of revenue for a number of terrorist groups and criminal organisations.
- Ransoms resulting from KFR (including long-term and single ransom payments) have a direct impact on the ability of terrorist groups to sustain the organisation, and fund future terrorist activity. For example, in the case of AQIM, can represent a significant portion of a terrorist organisation's budget.
- In reviewing the KFR cases provided to the project team, it became apparent that the formal financial system – banks in particular – played a surprisingly prominent role.
- The KFR cases presented in the typologies highlighted that STR/SARs are filed in KFR cases, and that doing so can often have a significant impact on a successful resolution of a KFR cases.
- Law enforcement authorities, including some FIUs, are often not informed of ransom payments
- International cooperation between LEAs, FIUs and other competent authorities are critical to successful resolution of KFR operations.
- A history of repeated ransom payments by an individual, business, or other entity often resulted in a greater likelihood that those who pay will be targeted again by terrorist groups.
- Tracking of serial numbers is an underutilised tool in responding to KFR

4.2 Identified Challenges

88. Despite a sufficient legal framework to address KFR in most cases, dual criminality issues presented a number of legal regimes with challenges with respect to investigating or prosecuting KFR.

89. According to law enforcement sources, the life or death nature of many KFR operations and the frequently compressed time frames resulting from tight payment deadlines can hamper international

cooperation and make coordination difficult to achieve. This is particularly true in cases where there is no previous operational relationship between jurisdictions involved in trying to investigate a KFR case.

- KFR is a worldwide and multijurisdictional phenomenon. The kidnapping can occur in one jurisdiction, but the ransom be paid in another, posing challenges. In addition, a variety of actors, including third party intermediaries, can be involved in facilitating ransom payments.
- Family members and associates of the hostages may choose to deal directly with the kidnappers rather than notify authorities, out of fear that the hostages would be harmed.
- The absence of coordinated investigations allows terrorists involved with KFR to continue and escalate their activities.
- The lack of a common method for KFR operations makes detection investigation and ultimately prosecution, difficult.
- There are governments that maintain budgets in order to make ransom payments to terrorists committing KFR, thus giving positive reinforcement to the terrorists.
- Successful terrorists operations may lead to the targeting of particular nationals or representatives of organisations.
- In at least some organisations that use KFR to finance their operations, funds primarily move through hawalas, making them more of a challenge to track.
- It is difficult to quantify the data related to disbursements of funding that terrorist groups receive as a result of KFR operations.

4.3 *Issues for Consideration*

90. It is not the intent or purpose to advocate one particular response over the other, particularly as a number of responses are not mutually exclusive. The project team does believe, that as a best practice, cost/risk factors be considered as part of the overall response. The following issues are submitted for consideration:

- A foundation of cooperation should be laid for best results in investigations and prosecutions
- In responding to KFR consideration needs to be given to the cost/risk calculations of terrorist related KFR.
- The cases examined by the Project Team, highlight the need for financial investigative skills and good working relationships with the financial sector and the FIU.
- Jurisdictions in which there is a close nexus between KFR and terrorists should provide appropriate law enforcement, prosecutorial and judicial tools and resources to investigate and prosecute KFR-related cases.
- Jurisdictions should seek to build the capacity to prevent, identify, and sanction the occurrence of KFR. Such measures include increased targeted intelligence gathering, enhanced information-sharing, and dissuasive measures such as adhering to a no concessions

policy regarding KFR and/or taking action post-incident to recover hostages and ransom payments and bring the perpetrators to justice.

- Application of asset forfeiture/confiscation to those directly involved in KFR or who aided and abetted this crime, when such assets have been identified, can be a tool to deprive terrorist and criminal organisation of the of KFR related funding, and in so doing provide a measure of dissuasion for KFR operations.
- Jurisdictions could consider a establishing a central point of contact to serve as the focal point to gather, analyze, and disseminate information related to KFR cases.
- Consideration could be given to a having a competent authority record and maintain a database of serial numbers from bills used in a ransom payment.
- Consideration could be given ways to impose costs in order to contain KFR and prevent institutionalisation and development of KFR into an established business enterprise.
- Advance notice of ransom payment can greatly assist law enforcement's successful resolution of KFR incidents.
- Raising awareness of KFR to the financial sector
- Creating a mechanism for cooperation between investigators and FIUs could be considered.
- Attention should be paid to increasing international cooperation and coordination including reviewing legislation that may hamper international cooperation.

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ANNEXES

ANNEX 1

PIRACY FOR RANSOM INCIDENTS*

FATF Questionnaires, March 2011

Incident(s)	Number of persons involved (victims, perpetrators)	Ransom Amount Demanded	Ransom Amount Paid	Payment Methods	Ransom Covered by Insurance
1	2, ?				
2		USD 1 500 000	USD 723 000 (1/2 in USD 100 notes and 1/2 in USD 50 notes)	Paid in cash in Dubai	Yes
3	?, 13	USD 7 000 000	USD 1 700 000	Paid via airdrop	Yes
4-13					
14	?, 4				
15		Approx. USD1 000 000	USD 1 100 000		
16	13, ?				
17			USD 1 600 000		
18	13, ?				
19	6, ?		USD 700 000	Money brought via another vessel	
20	27, ?		USD 2 400 000		
21	19, ?				
22		USD 1 500 000 – 2 000 000			
23	24, ?		USD 2 700 000		
24	27, ?				
25			USD 2 100 000	Paid via airdrop	Yes
26			USD 4 000 000	Paid via airdrop	Yes
27-30					

*Although the questionnaire referred to incidents within the previous five years, countries responded with varied timeframes.

ANNEX 2

PIRACY FOR RANSOM (PFR) CASE STUDY ANNEX

ANNEX CASE STUDY A

The European Union Naval Forces (EUNAVFOR) Somalia uncovered bank account numbers associated with Somali pirates. EUNAVFOR passed information about the accounts to Belgian law enforcement but it is unclear whether this information was used in a formal investigation to develop additional leads. The Belgian FIU was unaware of this information and was not apprised of a possible pirate nexus to financial institutions. Consequently, there was no further analysis of the information or any request for possible corroborating information from banks or other financial institutions. The Egmont Group's Secure Web was not utilised to disseminate the information to other FIUs and determine whether there might be links between individuals and/or groups to the accounts in other jurisdictions.

Months later, the relevant Belgian authorities began to meet together as an intra-governmental task force to review the information EUNAVFOR had provided. This is when the FIU became aware of the details related to the existence of the accounts.

Source: Belgium/EUNAVFOR

ANNEX CASE STUDY B

The hijackings of two Norwegian vessels in 2009 and 2010 further demonstrates the willingness of maritime insurance companies to indemnify multi-million dollar ransoms to secure the release of vessels, their crews, and valuable cargo. The Norwegian vessel hijacked in 2009 was held for sixteen days and released after a USD 2 million ransom was paid. The vessel hijacked in 2010 was held for 138 days and was released after payment of a USD 4 million ransom. The ransoms were both airdropped by a Kenya-based company, and reimbursed by a Norwegian insurance company. Professional negotiators, with the assistance of "response" consultants and law firms also engaged in the ransom negotiations. There was reportedly some level of involvement of Norwegian and international authorities in the negotiations.

Source: Norway

ANNEX CASE STUDY C

Throughout 2010, Mexican pirates plied the waters of Falcon Lake where they hijacked boaters and fishermen who strayed onto the Mexican side of the lake. On 30 April 2010, four heavily armed men boarded two boats and demanded money. After collecting USD 200 in cash, the bandits tried to follow the US boats as they sped back to US waters. The bandits abandoned the chase once they reached the US boundary. On 6 May 2010, two armed men approached a boat and demanded money from a group of five fishermen. Five armed men boarded a boat on the U. S. side of the lake. Investigators have no further information on the incident. On 31 August 2010, pirates in a small boat marked "Game Wardin" attempted to hijack a Texas fisherman but his boat outran the Mexican vessel giving chase.

Source: United States

ANNEX CASE STUDY D

S.Y. Lynn Rival, Le Ponant and Choizil

On 23 October 2009, a British couple, Paul and Rachel Chandler, were hijacked. They were subsequently forced to abandon their vessel and transfer to the Kota Wajar, a container ship that had been hijacked a week earlier and put into service as the pirates' mother ship, which brought them onshore. The pirates demanded a ransom of GBP 4m (USD 6.54m) and began issuing threats through the media in an effort to pressure the Chandlers' relatives into finding the money. Negotiations were conducted through a private security firm, but no agreement was reached. During the negotiations, money was moved to Nairobi and airdropped in the belief that the couple would then pass into the protective custody of a pro-western warlord. However, the pirates demanded more money, claiming a second ransom deal had been struck. Specialists were then called in from an international private security firm with experience in brokering multi-million-pound ransom deals. On 14 November 2010, after 388 days in captivity, the couple was finally released after an USD 800 000 ransom was paid, reportedly via hawala. No further information is available concerning the ransom money.

The owner of the Le Ponant obtained the funds to pay the ransom for his vessel and its crew of 30, which had been hijacked on 4 April 2008. The ship and its crew were released on 11 April 2008. The two South Africans who were taken hostage when the Choizil was hijacked in late October 2010 remain in captivity. The captain of the vessel managed to escape.

Sources: Williams, David; Allen, Vanessa (2010); Rugman, J. (2010); Collins, S. (2011); Hampton, K. (2008); Hampton, K. (2010) *Save The Chandlers* (2010),

ANNEX CASE STUDY E

S.V. Quest

Somali pirates hijacked the S.V. Quest on 18 February 2011, approximately 282 nautical miles off the coast of Oman. The Quest was part of a multi-national yacht rally and had four US citizens on board. The pirates demanded a large ransom for their release. As the pirates headed for the Somali coast, the US Navy responded and eventually established radio contact with the pirates. Hostage negotiators attempted to secure the safe release of the hostages. During negotiations, the pirates fired at a Navy ship and for reasons unknown they turned their weapons on the hostages and shot them dead. US military personnel then boarded the Quest and captured the pirates.

A total of 15 persons were taken into US custody following the shootings. Subsequently, 14 Somalis and one Yemeni, including the alleged ransom negotiator, were charged with piracy and hostage-taking.

Source: United States

ANNEX 3

KIDNAPPING FOR RANSOM INCIDENTS

as reported in FATF Questionnaires, January 2011

Incident	Number of People Involved (victims/perps)	Ransom Demanded	Ransom Paid	Terrorist Financing ?	Methods	Country Activity
1	1, 2	JPY 10m	JPY 1m		into bank account, withdraw ransom at ATM	Accounts traced, notified FIU, who then reported to police
2	1, 1		JPY 1m			
3	1, 5		JPY 45m		JPY 7m deposited into account with fictitious name	
4	1, 4		JPY 100 000		paid into bank account - victim had owed JPY 1.6m to kidnappers	
5	1, 5	JPY 2m	0 (rescued)		after kidnapping used victims ATM card to withdraw JPY 750 000	
6	3, ?		USD 140 000			
7	1, 7	USD 500 000	0 (rescued)		Demanded ransom be paid to bank in Taiwan	
8	1, 4	3m pesos	0		released after wife refused to pay for lack of funds	
9	?		IND 45m		Bank transfer via ATM, internet banking, 4 STRs	
10	1, 2	HKD 300 000	0 (caught)			Authorities marked bills to trace
11	1, 4	HKD 300 000	0 (caught)		botched kidnapping	

Incident	Number of People Involved (victims/perps)	Ransom Demanded	Ransom Paid	Terrorist Financing ?	Methods	Country Activity
12-45 (34 incidents)					included ransom payments in elaborate global schemes as well as simple schemes	
46-48 (3 incidents)	2, ?		USD 150 000		unprecedented violence and techniques to get information from victims	
49	3, ?		USD 1.5m		paid (wired) in China, Toronto, Vancouver	
50	1, 6	0	0 (rescued)			
51	2, 4	0	0 (rescued)			
52	1, 8	USD120 000			Wanted ransom delivery in local city and also wire transfer to Syria	
53	1, 4				Result of debt owed	
54	1, ?		0 (escaped)		ATM, PIN, vehicle stolen	
55-61 (7 incidents)			0 (all but 1 released)	possibly	Took place in Niger (2), Somalia, Afghanistan, Sudan, Nigeria, Pakistan. Hostage in Pakistan not released. No payment of ransoms	
62	4?	EUR 10m and release of Abu Qatada	0 (?), 3 released and 2 previous Canadian hostages released	Yes	AQIM, Edwin Dyer, killed June 2009, kidnapped along with Swiss, Germans, kidnapped and sold to AQIM for profit	
11,060 incidents						
2793 incidents					only 2005 through mid-2008 available. 5 years back from 2008, 5236 incidents total, 45% of ransoms used to finance activities of criminal groups.	
130 incidents					often political motivation alongside ransom demands. Also, some terrorist groups working with local criminal groups to execute KFR operations	
14,045 instances total						

ANNEX 4

KIDNAPPING FOR RANSOM (KFR) CASE STUDY ANNEX

ANNEX CASE STUDY A

Terrorist groups in the Philippines have frequently used kidnapping for ransom (KFR) as a primary means of financing targeted terrorist acts against government entities and officials, as well as indiscriminate attacks on Filipino civilians. KFR occurs throughout the Philippines but is most prevalent in the southern islands where violent Islamic separatist groups claim their activities are tied to their goal of establishing an independent Islamic state. Kidnappers often negotiate ransom payments directly with the families of their victims but there are also instances where local, regional and/or central government officials act as intermediaries in negotiating ransom payments.

KFR is a predicate crime in accordance with Section 4 of the Philippines Anti-money Laundering Act of 2001, as amended. Philippine law enforcement and judicial officials have declared that KFR is a “popular means” terrorists resort to finance terrorism in the Philippines.

In one such case, which illustrates the complications which arise in kidnappings in the Philippines, terrorists kidnapped three journalists and their guide in the southern Philippines after they mistakenly believed they had received “safe conduct” to interview the leader of a terrorist group. A ransom of approximately USD 1.1 million was demanded from the families for the release of the hostages.

A mayor in the area, aided by a son, took control of the negotiations and successfully reached agreement with the terrorists to reduce the ransom to approximately USD 450 000. An initial payment of approximately USD 112 000 was delivered to the provincial airport where it was received by the region’s vice-governor. He subsequently turned the funds over to the mayor. The receipt of these funds resulted in the release of one of the hostages. It was later reported that the initial payment made to the terrorist group was approximately USD 45 000 rather than USD 112 000. Approximately USD 67 000 went missing.

The bulk of the ransom, approximately USD 340 000, was delivered to a lawyer who was been hand-picked by the mayor engaged in the negotiations with the terrorists. Law enforcement officials detained the lawyer and confirmed he possessed the balance of the ransom. The mayor demanded the release of the lawyer and the police acquiesced on the condition that they accompany him to the location of the “drop.” The terrorists collected the payment and subsequently released the remaining three hostages.

At the request of law enforcement officials, the Philippine Anti-money Laundering Council (AMLC), which is legally responsible for investigating money laundering cases involving KFR, launched an investigation of the mayor, his son, and others who had been peripherally involved in the negotiations. The evidence collected strongly suggested the mayor had colluded with the terrorists in planning the kidnappings and that proceeds from the crime were deposited in bank accounts belonging to the mayor and his son. Approximately USD 45 000 was recovered from these accounts. The AMLC rejected bail petitions from the mayor and his son and their prosecution is pending.

Source: Philippines

ANNEX CASE STUDY B

Pakistani media outlets, experts and public officials have warned of a rise in kidnappings as the result of militant efforts to increase funding, either by “outsourcing” to criminal elements or creating their own specialised kidnapping cells.

It is said that “a mutually beneficial relationship between militants and criminals has given a new and dangerous dimension to the lucrative business of kidnapping,” causing an increase in incidents, many of which go unreported. It has also been noted that kidnappings are now a “major” source of income for militants, who have been

emboldened because of the government's and victims' willingness to pay ransoms, which is said to happen in more than 90% of the KFR cases in Pakistan. This "alarming" rise in KFR is attributed to the drying up of traditional sources of militant funding causing "desperate" militants to start "outsourcing the job" on "soft targets" to criminals in "all corners" of Pakistan. Pakistani media report that kidnappings are more organised, with separate militant groups that specialise in kidnappings, and that ransoms are higher and mostly used to finance militant requirements such as arms and explosives. One Pakistani daily reported there had been 547 kidnappings in 2010 as compared to 530 in 2009. (Newsline, "Striking Gold" By Rahimullah Yusufzai 15 January 2011)

Pakistani media reports most often link the Tehrik-e-Taliban Pakistan (TTP) to kidnappings, but other Pakistani militant groups, such as Lashkar-e-Jhangvi (LEJ), Lashkar-e-Islam and Sipah-e-Sahaba Pakistan (SSP) have also been accused of involvement in KFR. Several Pakistani papers reported that a TTP faction called the Al-Tauheed Wal Jihad (ATWJ) was engaged in criminal activities for funding purposes after five of their members were arrested in Lahore. Other groups reported to be kidnapping on behalf of the TTP include the Ziaur Rehman group in Hangu, the Haji Fayaz group in Orakzai, the Tariq group in Darra Adamkhel, Mullah Gul Zaman, Aslam Farooqi group (locations not noted) and a group in Waziristan headed by Mullah Sabir and Mullah Rahim. (Daily Times 29 October).

Ransom demands can vary from smaller monetary sums for businessmen and children to large amounts plus the release of prisoners for high profile victims. Militants target anyone "who could pay," with diplomats being "highly prized" and the "worse affected" being businessmen. Targets include businessmen; diplomats; foreigners; government, pharmaceutical, and mobile phone company employees; doctors; engineers; minorities; pro-government elders; and Awami National Party activists, among others. According to Ummat, criminals in Karachi are demanding anywhere from PKR 100 000 to 1 million (approx. USD 1 165 to USD 11 655) while TTP affiliates are demanding between PKR 2.5 and 5 million (approx. USD 29 137 to USD 58 275) (Ummat 15 November).

The following list details victims and ransom demands reported in the Pakistani media over the past three months:

- Vice Chancellor of Kohat University/50 million rupees (approx. USD 582 000) - paid and released/Dawn, 14 December; The News, 12 November
- Minor boy/7 million rupees (approx. USD 81 000) - recovered by police/Dawn, 29 November
- Three British nationals/200,000 British pounds (approx. USD 318 500) – demanded Ausaf, 11 January
- Former ISI official Col Imam/10 million rupees (approx. USD 116 400) and release of key Afghan Taliban commanders – demanded/The News, 24 January
- British journalist Asad Qureshi/10 million rupees (approx. USD 116 400) – paid/ The News, 24 January
- Son of a Karachi businessman/1 million rupees (approx. USD 11 600) – paid /Ummat, 15 November

Source: Pakistani Press Articles

ANNEX CASE STUDY C

The US conducted a series of interrelated investigations involving kidnapping by Islamic extremists from 1994 to 2002. The kidnappings involved a designated terrorist group, the Harakat-ul-Ansar (HUA); whose objective was both financial and political.

In 1994, four tourists were abducted in a series of kidnappings attributed to the HUA. The primary objective was to affect the release of militants who had been incarcerated by the Government of India. Investigation by Indian and US law enforcement led to the discovery and freedom of all four hostages and the arrest of the hostage takers as well as a member of the designated terrorist group.

In 1995, six tourists were kidnapped by the same designated terrorist group who again demanded the release of incarcerated militants, including the member arrested above. One hostage managed to escape and one was found murdered shortly after the initial abduction. Negotiations ensued between the hostage takers and the countries involved, however, when it was learned that the hostage takers were also demanding USD 1.6 million, the negotiations ceased. Later, five of the terrorist group's militants were killed in an encounter with the government, including one believed to be a leader of the group. The fate of the remaining hostages is unknown, but they were

believed to have been killed several days later.

In 1999, the same terrorist group hijacked an Indian airline and again demanded the release of incarcerated militant leaders. Two of those militants were released, including the member arrested in the 1994 kidnappings. The other militant went on to form a separate designated terrorist group and the original member was eventually indicted for his participation in the 1994 kidnappings and later convicted in Pakistan for his subsequent involvement in the 2002 kidnapping/murder of Daniel Pearl, a Wall Street Journal Reporter.

Source: United States

ANNEX CASE STUDY D

Foreign nationals have been prime targets of terrorists and/or criminal organisations involved in kidnapping for ransom (KFR) in the Philippines. Millions of dollars have been paid to free foreign victims of KFR. Filipino authorities used a Suspicious Transaction Report (STR) to solve the kidnapping of a foreign national who was taken by suspected terrorists during a visit to the Central Philippines. The kidnappers contacted the victim's family in his home country and demanded a ransom for his release. His abductors also provided information about a bank account into which the ransom payment would be deposited. The family contacted its home country embassy in the Philippines. The embassy provided law enforcement authorities with information regarding the bank account and the amount of money to be deposited. A ransom payment of approximately USD 68 000 was wired to the account which triggered an STR. The Anti-money laundering Council (AMLC) ordered an investigation and determined that the ransom payment was the only transaction that had ever been conducted through the suspect account. The account was frozen and the owner arrested on charges of KFR and money laundering. The ransom payment was returned to the victim's family.

Source: Philippines

ANNEX CASE STUDY E

A cohabitating couple kidnapped an individual and demanded approximately USD 112 000 for his release. His family negotiated an initial payment of approximately USD 5 600 and the funds were deposited into a bank account of one of the kidnappers. The family had also contacted law enforcement authorities and kept them informed of developments. The bank where the funds were deposited filed a STR with the Philippine Anti-money Laundering Council's Secretariat (AMLCS). Police had provided information from the family to the bank regarding the specific account into which the funds would be deposited. The AMLC ordered the freezing and forfeiture of the funds. The perpetrators were subsequently arrested and the victim was rescued after six days of captivity.

Source: Philippines



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