



# Practical stumbling blocks

exemplified in the M/V Iran Deyanat case

AIDA Swiss Chapter Event on Sanctions

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# Piracy attack on M/V Iran Deyanat in 2008



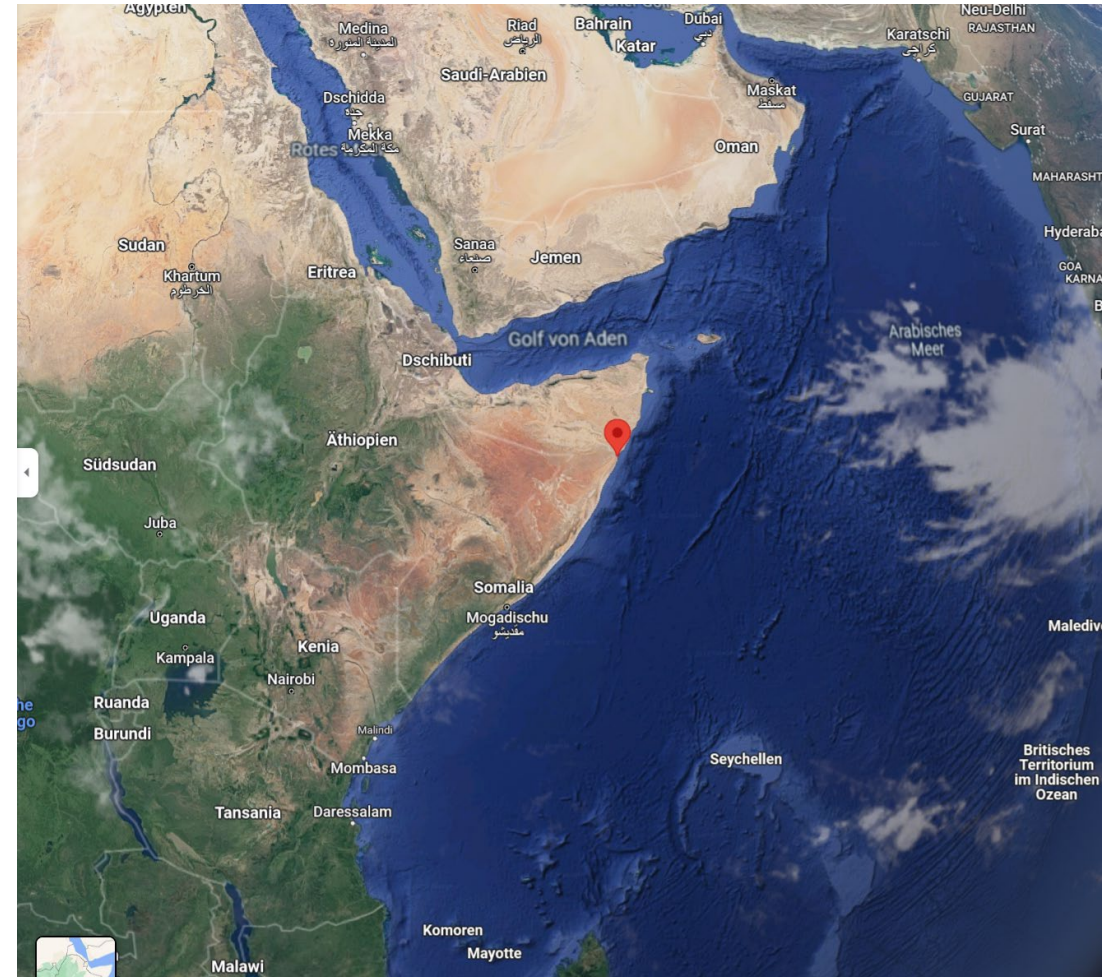
# The Hijack

- Bulk carrier built in 1983
- Owned by Islamic Republic of Iran Shipping Lines (IRISL)
- **July 2008:** two shipments of 1'800 t of corn gluten meal and 1'500 t of glyucose from China to Rotterdam.
- **August 2008:** Hijack in the Gulf of Aden by 40 pirates



# The Hijack

- Ship was brought near the coast of Eyl
- Negotiations between IRISL (through their insurers) and pirates for the payment of a ransom
- **August 2008:** A ransom payment was made.
- IRISL declared general average and requested contributions from cargo owners and their insurers.
- **April 2010:** General Average Adjustment setting out the amounts to be paid by cargo owners; contractual right of the owners under the Bills of Lading
- **August 2010:** IRISL was added to the UN/EU and Swiss sanctions list against Iran.



# The Odyssey with SECO



# Swiss Ordinance on sanctions against Iran

- **April 2013:** IRISL (i.e. the insurer) claimed contributions from the two buyers and their insurers.
- **May 2013:** Our request to SECO for the approval of the two payments “satisfying an existing agreement”
- **14 days later:** First decision of SECO: “no approval, please come back later, once IRISL is off the sanctions list.”
- **June 2013:** SECO then said, request may be successful if the payments remain on a frozen bank account.
- **September 2013:** Judgment of the General Court of the European Union: IRISL is no longer on the list
- **October 2013:** Our 2nd Request to SECO

## Art. 12 of the Ordinance

Money transfers to and from an Iranian person, entity or body of more than CHF 50'000 shall require a prior authorisation of SECO by request in writing.

## Art. 10 (3) of the Ordinance

By way of exception, SECO may authorise payments from frozen accounts, transfers of certain frozen funds or releases of economic resources: [...]

b) for satisfying an existing agreement [...]"

# Speed is a virtue?

- **October 2013:** SECO asked for confirmations from HM Treasury Asset Freezing Unit (collecting the contributions was permitted) and from bank (account was frozen).
- **November 2013:** No appeal against judgment, but European Council issued new implementing regulation (IRISL back on the sanctions list). Our 2nd request was denied (within one day!).
- **January 2014:** All confirmations obtained and sent.
- **March 2014:** Order was about to be issued, asking for the names of the two paying banks.
- **April 2014:** SECO asked for copies of the settlement agreements.
- **July 2014:** SECO approved the two transfers.
- Payment of one bank refused because the payment instructions contained the word “IRAN”.



# Takeaway points

- Speed is not SECO's strong suit.
- SECO can be very reluctant, decision-averse and delay the proceedings tremendously.
- Become alert if they ask for the information piece by piece.
- Dismissal orders are issued much faster.



# Thank you!

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