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Reprisal and diplomacy: conflict resolution within the context of Anglo–Dutch commercial relations c1300–c1415

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This article discusses how merchants or skippers suffering losses aimed to get redress for damages in trading and shipping from or with Holland and Zeeland in the fourteenth and early fifteenth century within the context of Anglo–Dutch trade and diplomacy. In accordance with legal doctrine both the English king and the Count of Holland considered reprisal as an ultimate remedy. Both rulers used the possibility of reprisal as a means of pressure within Anglo–Dutch diplomacy. Their willingness to support their subjects went beyond the issue of damage redress as it also enabled them to have more control over their subjects. When reprisal was eventually issued, rulers on both sides of the Channel carefully supervised and controlled its procedures. Even though rulers were prepared to support victims via diplomacy and, ultimately, reprisal, they did consider individual interests in the functioning of the wider political and economic interests of their countries.

Keywords: reprisal; diplomacy; conflict resolution; damage redress; maritime trade; Anglo–Dutch relations 1300–1415; fourteenth century

I. Introduction

Trade and shipping were thriving industries in Northwestern Europe in the late Middle Ages. But those seeking success through such enterprises, particularly those involving partners from different cultural backgrounds, were faced with a number of challenges. Differences in the customs, languages and, above all, jurisdictional affiliations of foreign businesses created potential for misunderstanding

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and conflict. Profit through maritime trade and shipping in pre-modern times also demanded awareness of the potential and use of violence. 'Robbery under arms was a normal aspect of trade.'¹

When a ship was attacked and taken at sea, the owner and its cargo could seek redress by carrying out a counterattack to regain his loss. Such retaliatory measures could easily lead to escalation, especially when the burgeoning conflict harmed innocent bystanders from the original wrongdoer's society. Just as partners in business shared an interest in the safe conduct of their activities, sovereigns and towns also recognised the importance of regular trade and shipping for the growth and welfare of their countries and towns. Public authorities thus became involved in the resolution of conflicts that occurred as a consequence of international trade and shipping. Those claiming damages could seek redress by appealing for the support of their local or central authorities or by addressing the authorities of the wrongdoer.

One way to obtain redress for damages was reprisal. *Reprisal* is the recovery of damages by private individuals, including outstanding debts, from one or several members of the original aggressor's community. Reprisal could be performed in two ways: first, by the seizure of goods belonging to members of the offender's or debtor's community. Second, by granting the victim permission to employ his own means – logically by ship in the case of mariners – to obtain goods or to capture persons belonging to the aggressor's or debtor's community amounting to the value of the damages suffered. In practice, the latter was not without violence as neither skippers nor merchants were likely to surrender their ships and goods voluntarily.² Reprisal was thus based on the principle of collective liability. Due to the risk of escalation through reprisals, which could incite counter reprisals, authorities were extremely reluctant to grant reprisal letters. This, after all, could allow disputes between individuals to grow into broader conflicts between communities, thus diminishing the welfare of international trade on a broader scale. Letters of reprisal were therefore granted as a last resort when redress through diplomatic and judicial means was deemed impossible.³ Reprisal can be distinguished from

¹NAM Rodger, 'The Law and Language of Private Naval Warfare' (2014) 100(1) *The Mariner's Mirror* 6.

²Thomas Heebøll-Holm, *Ports, Piracy, and Maritime War: Piracy in the English Channel and the Atlantic, c 1280–c 1330* (Brill, 2013) 154; Pierre-Clement Timbal, 'Les lettres de marque dans le droit de la France medievale' in *Recueils de la Société Jean Bodin, X, L'Etranger, vol II* (Editions de la Librairie Encyclopédique, 1958) 109, 119–20.

³JHA Lokin and WJ Zwolve, *Hoofdstukken uit de Europese codificatiegeschiedenis* (3rd edn, Boom 2006) 113–14; Karl-Heinz Böhringer, *Das Recht der Prise gegen Neutrale in der Praxis des Spätmittelalters* (Hamburg, 1972) 44–48; Heebøll-Holm (n 2) 11, 134–40, 146, 153–55; Stephen Neff, 'Reprisals' in *Encyclopedia of War* (Wiley, 2011); MH Keen, *The Laws of War in the Late Middle Ages* (Routledge & Kegan Paul, 1965) 218–24; René de Mas Latrie, 'Du droit de marque ou droit de représaille au Moyen Âge' (1866) 27(1) *Bibliothèque de l'École des Chartes* 529; Marie-Claire Chavarot, 'La pratique des lettres de marque d'après les arrêts du parlement (XIIIe-début XVe siècle)' (1991) 149(1) *Bibliothèque de l'école des chartes* 51; Timbal (n 2).

retaliation in that in the case of the former a person was entitled by a public authority to claim compensation for damage sustained from a wrongdoer. For princes, letters of reprisal left no room for retaliation; it was purely a means of compensating one's private loss.⁴ Reprisal must also be distinguished from privateering, as the former concerns private enforcement actions with some form of public endorsement in peacetime or war while the latter relates exclusively to war. A privateer is only allowed to seize ships and goods belonging to declared adversaries of his commissioning authority.⁵

Grants of reprisal were formulated differently depending on the place, period and language of the commissioner. Thomas Heebøll-Holm has already identified a range of different terms applied in different contexts, including 'la marque', 'lincenciam marchandi', 'litteram marchandi', and expressions for the right of reprisal, such as 'possit marchare', 'marcham', 'marches', 'gage' and 'marchati'.⁶ While the term 'letters of marque and reprisal' was used in England from 1354 onwards, the terms continued to vary greatly in practice.⁷ The Dutch sources examined for this article do not use a single term.⁸ In most sources, reprisal is referred to as the right to seize goods of foreigners from a certain country as compensation for a loss. For the sake of convenience, we shall use the expression *letters of reprisal* to refer to all grants to conduct reprisals.⁹

Letters of reprisal allowed public authorities, primarily princes, to control private actions at a time when those authorities lacked their own means of control. Reprisal enabled princes to govern and limit the use of private violence. Allowing for greater distinction between lawful and unlawful practices, it empowered princes to protect the interests of their own subjects as well as foreign merchants sanctioned to carry out reprisal. Even before reprisal could be executed in practice, the threat of action could relieve tensions associated with diplomatic

⁴See Heebøll-Holm (n 2) 154.

⁵See Böhringer (n 3) 51; Louis Sicking, *De piraat en de amiraal* (Brill, 2014) 7; See also Rodger (n 1); M Tranchant and S Hamel, 'Le déploiement de l'Amirauté de France à La Rochelle à la fin du Moyen Âge' (2014) 19(2) *Revue d'histoire maritime* 33, 43–44.

⁶See Heebøll-Holm (n 2) 155–58.

⁷JA Simpson and ESC Wiener, *The Oxford English Dictionary* (Clarendon Press, 1989).

⁸HJ Smit (ed), *Bronnen tot de geschiedenis van den handel met Engeland, Schotland en Ierland 1150–1585. Eerste deel, 1150–1485: eerste stuk, 1150–1435* (Martinus Nijhoff, 1928); Edward John Long Scott and Louis Gilliodts van Severen, *Le Cotton Manuscrit Galba BI* (Brussels, 1896); Zeger Willem Sneller and WS Unger, *Bronnen tot de geschiedenis van den handel met Frankrijk* (Martinus Nijhoff, 1930); Frans van Mieris, *Groot charterboek der graaven van Holland, van Zeeland, en heeren van Vriesland. Vierde deel* (Leiden, 1756); Georg Frederik thoe Schwartzenberg en Hohenlansberg, *Groot Placaaten Charter-boek van Vriesland. Eerste deel* (Leeuwarden, 1768).

⁹About the linguistic confusion about 'letter of marque' and 'lettre de marque' in English and French, see Rodger (n 1) 6, 12. The German terminology on the contrary allows for a clearer distinction, a 'Markebrief' being a letter of reprisal and a 'Kaperbrief' being a commission to privateer, in spite of confusion in older German literature on the topic. See Böhringer (n 3) 44–49.

negotiations.¹⁰ Recognising the potential for taxation, princes generally sought to facilitate commercial prosperity and thus avoided letters of reprisal.

The concept and practice of reprisal has already drawn the attention of scholars. Both pre-modern jurists and modern legal historians have discussed the concept in different contexts. Particularly influential was the work of Bartolus of Sassoferrato. His *Tractatus represaliarum* (*Treaty of Reprisals*) from 1354 was not only contemporaneous to the period under consideration, but also shaped the work of his contemporaries and later scholars, including John of Legnano, Honoré Bonet and Nicholas Upton. Bartolus described the conditions for reprisal in great detail, emphasising that reprisal is a desperate remedy, a last resort that could only be granted by princes with no superior.¹¹ In terms of modern historiography, we will limit ourselves here to a few remarks on the literature on reprisal in England and France as this contribution will focus on the Anglo–Dutch context. In the beginning of the twentieth century Reginald Marsden examined English cases. He noted that despite the establishment of admiralty courts, private conflicts between merchants were rarely settled in these forums. Generally, cases were resolved via common law and the king’s judgment.¹² In 2010, Bryan Dick studied the process of reprisal looking at different contexts but with a focus on England and France. He concluded that the legal process surrounding the seizure of shipping vessels was civil rather than criminal in nature. Moreover, the plaintiff’s demand for restitution, rather than the state’s desire to monopolise violence at sea, was the driving force behind such actions.¹³ Recently Thomas Heebøll-Holm has addressed reprisal in the context of Anglo–French relations around 1300.¹⁴ Nicholas Rodger has also examined the concept as it pertained to England, in close connection with privateering, in the early modern era.¹⁵

¹⁰Emily Sohmer Tai, ‘Marking Water: Piracy and Property in the Pre-modern West’ (2003) http://webdoc.sub.gwdg.de/ebook/p/2005/history_cooperative/www.historycooperative.org/proceedings/seascapes/tai.html (accessed 27 September 2016); Heebøll-Holm (n 2) 140; Alfred Rubin, *The Law of Piracy* (Transnational, 1988) 34; Louis Sicking, *Neptune and the Netherlands: State, Economy, and War at Sea in the Renaissance* (Brill, 2004) 420–21.

¹¹E.g. Bartolus of Sassoferrato, ‘Tractatus Represaliarum’ in *Consiliorum Bartoli libri duo* (Lyon, 1555); CN Sidney Woolf, *Bartolus of Sassoferrato: His Position in the History of Medieval Political Thought* (Cambridge University Press, 1913) 203. See Keen (n 3) 219–20; D Gaurier, *Histoire du droit international. De l’Antiquité à la création de l’ONU* (Presses universitaires de Rennes, 2014) 111–12; Jacob Giltja, ‘Roman Law and the *causa legitima* for Reprisal in Bartolus’ (2014) 20(1) *Fundamina: A Journal of Legal History* 349.

¹²Reginald Godfrey Marsden, ‘Early Prize Jurisdiction and Prize Law in England’ (1909) 24(96) *The English Historical Review* 675, 677–82.

¹³Bryan Dick, ‘Framing “Piracy”: Restitution At Sea in the Later Middle Ages’ (PhD thesis, University of Glasgow 2010) 4, <http://theses.gla.ac.uk/2244/> (accessed 15 October 2016).

¹⁴See Heebøll-Holm (n 2).

¹⁵Rodger’ (n 1).

Marie-Claire Chavarot uncovered a fairly sophisticated procedure for reprisal in France around the fourteenth century. Victims would usually seek to resolve conflicts locally before turning to the parliament of Paris, which could issue letters of reprisal following a meticulous investigation of the case. The parliament directed these letters towards specific communities rather than entire countries. The execution of such letters in France remained a strictly private matter as parliament abstained from all forms of intervention.¹⁶

The following explores these themes in the context of Anglo–Dutch trade and diplomacy, examining the means by which merchants or skippers sought redress of damages from or with Holland and Zeeland in the fourteenth and early fifteenth century. The focus will be on the role of reprisal. Both Holland and Zeeland were important players in shipping in Northwest Europe in the late Middle Ages, with Zeeland preceding Holland as the archipelago profited by the decline of Flemish trade in the late-thirteenth century.¹⁷ Dutch – meaning ‘from Holland and Zeeland’ – and foreign merchants and skippers, trading with each other, became involved in cases of damage redress that may have included reprisal. The following analysis focuses primarily on records for the period 1250 to 1425, as published in *Bronnen tot de geschiedenis van den handel met Engeland, Schotland en Ierland 1150–1585* and several other source compendia.¹⁸ In order to determine the practical procedure of reprisal, we will first examine the general possibilities, steps or phases of such a procedure, with a primary focus on Anglo–Dutch cases. We will then discuss the general strategies for controlling reprisal before looking more closely at the tactics of a particular merchant, John Waghen from Beverley, in obtaining redress in Holland. Our aim is to illustrate the variety of interests at play and the ways in which these differing interests influenced the case’s resolution. This will allow us to evaluate the significance of reprisal within the context of Anglo–Dutch trade and diplomacy in the fourteenth and early fifteenth century.

¹⁶See Chavarot (n 3) 79–85.

¹⁷Nelly Johanna Martina Kerling, *Commercial Relations of Holland and Zeeland with England from the Late 13th Century to the Close of the Middle Ages* (EJ Brill, 1954) 35–36, 193. For an overview of Anglo–Dutch commerce in the second half of the thirteenth century see DEH de Boer, ‘Florerend vanuit de delta. De handelsbetrekkingen van Holland en Zeeland in de tweede helft van de dertiende eeuw’ in DEH de Boer, EHP Cordfunke and H Sarfatij (eds), *Wi Florens ... De Hollandse graaf Floris V in de samenleving van de dertiende eeuw* (Matrijs, 1996) 126–52, 139–47.

¹⁸HJ Smit (ed), *Bronnen tot de geschiedenis van den handel met Engeland, Schotland en Ierland 1150–1585. Eerste deel, 1150–1485: eerste stuk, 1150–1435* (Martinus Nijhoff 1928). Hereafter, we will refer to this work as the BhESI followed by the number (no) of the entry in question. Aside from the Dutch sources mentioned in note 8, we also make use of several English editions from the *Calendar of the Close Rolls preserved in the Public Record Office*. For the sake of convenience we shall refer to these publications as CCR followed by the edition title, publisher, edition year and page number. Likewise, the *Calendar of the Patent Rolls preserved in the Public Record Office* will be referred to as CPR followed by the edition title, publisher, edition year and page number.

II. The procedure of reprisal in Anglo–Dutch practice

How could conflicts involving merchants or sailors from different regions or countries be resolved? The frequency of cross-cultural interaction in ports, on rivers and at sea provided many occasions for conflict. Disputes could concern unfulfilled payment, robbery by opportunistic merchants on open waters, or even damage incurred during a melee between intoxicated sailors. While the initial conflict was undesirable, further unrest should be prevented as much as possible. Due to the concept of collective responsibility, disputes between individuals could spiral out of control as other individuals got involved. How, then, could victims of maritime conflict find compensation?

Theoretically, merchants could seek compensation by carrying out reprisals on their own initiative. This was illegal, for legal action demanded the prince's authorisation in the form of a letter of reprisal. Based on the surviving documents, it is tempting to conclude that merchants generally avoided such actions. Then again, illegal reprisals would rarely, if ever, leave a written record.

Victims could also seek the support of public agencies by filing a complaint to the local authorities (either the port magistrate or the prince, sometimes both in this order) of the perpetrator(s).¹⁹ Although uncommon, the government of a city could also complain to a foreign prince on behalf of its merchants.²⁰ Ideally, the case was settled locally after this and lost property was restored or compensated. It is difficult to say how often cases were settled locally, as we are, in fact, unable to identify examples of this in the sources studied. We conclude that such incidents were exceptional in the fourteenth century, and find support for this theory in previous studies of Anglo–Castilian conflicts, where authorities were only willing to offer redress to foreigners who enjoyed the backing of their home rulers.²¹

If conflicts could not be settled locally, victims would address the case to their prince, either through direct petition or with the help of a (local) representative.²² This is an interesting step in the process, as the prince was then compelled to pass judgement. The following example demonstrates how conflicts could be resolved

¹⁹We have only encountered such complaints indirectly; in diplomacy between princes it is often mentioned that the victim could not settle the case locally (for whatever reason). This could be due to the selection of sources by the editor of the BhESI; the archives from some larger English cities were visited but certainly not all. Further research of local sources might give more insight into this aspect of the procedure of reprisal.

²⁰E.g. BhESI, nos 89 and 787.

²¹See Heebøll-Holm (n 2) 209–12, 224–26; see also the contribution of Javier Añibarro Rodríguez in this issue on the *Cuatro villas* in northern Castile; Compare with Oscar Gelderblom, *Cities of Commerce: The Institutional Foundations of International Trade in the Low Countries, 1250–1650* (Princeton University Press, 2013) 15.

²²It must be noted however that the victim could still always turn to illegal reprisal.

without violence or diplomatic pressure. Sometime in May 1293, Hugo Mulard, a merchant from Holland, was robbed by Walter Hobbe, an English merchant, and his brothers from Bristol in the sea between England and Normandy. In addition to his ship, the perpetrators seized goods valued at £52 sterling. On 14 June, 1294, Mulard filed a complaint to King Edward I of England (r 1272–1307). This apparently resulted in a procedure at the Royal Court, for we know that Hobbe declared his innocence, claiming to have purchased the ship from citizens of Bristol and was not in possession of Mulard's goods. The verdict was twice postponed, first to 25 June, and later to 2 August 1294, to allow both parties to assemble evidence for their claims. The verdict passed by the Royal Court on 2 August instructed Mulard to procure a certificate from the Dutch count, Floris V (r 1256–96), verifying his claims concerning the worth of his ship and goods. At some point before 23 August 1295, Floris V sent Edward I a letter confirming Mulard's claim, adding that he hoped for a swift resolution to the case. On that date, Mulard appears to have given powers of attorney to one Christiaan, a Dutch knight, in negotiating a compensation with Hobbe in his name. Christiaan's brokerage proved successful as he reported that he had received compensation from Hobbe the following day.²³ Thus, the case was resolved without violence or long diplomatic negotiations.

Most cases were not resolved this easily, however. Before reprisal became an option, rulers first sought to settle conflicts between their subjects via diplomacy. Typically, the prince of the victim sent a letter to the prince of the perpetrator in which he complained on behalf of his subject. In order to increase the chance of compensation or restitution, such letters were very detailed. In one example, Count William VI (r 1404–17) of Holland-Zeeland dispatched such a letter to King Henry IV of England (r 1399–1413) on 6 June, 1411. William's subject, Jan Yewinszone from Schiedam, was returning home with goods worth c £106 when, close to the mouth of the Maas river, he was robbed by a man named Prendegast and other subjects of the English king. They assaulted Jan with two ships coming from Dover and Sandwich. The attack occurred around Saint Boniface day (5 June), almost certainly in 1410. Having provided the details of the case, the count asked the English king for the restitution of Jan's goods, citing the peace once enjoyed by subjects and the exceptional freedom with which Englishmen were allowed to trade in his land. The count also mentioned another conflict between Jan and other individuals from the year before.²⁴ It appears that when one complaint was made, other issues of Dutch merchants were mentioned at the same time, probably for the sake of convenience.²⁵ Ideally, the English king would resolve the case after the count's letter, having enough information to

²³BhESI, no 105.

²⁴BhESI, no 881; see Scott and van Severen (n 8) 305.

²⁵Compare this with the contribution of Ian Peter Grohse in this same issue in which an initial complaint from 1312 concerned attacks on Orkney, but also mentioned the seizure of merchants in Bergen. Although Grohse thinks the attacks were related, it may be that they were mentioned for the sake of convenience.

find and prosecute the offenders. The victim would have been compensated and the case would have been resolved, all without disrupting trade or causing further disturbance. For the case of Yewinszone, we are not informed on the actual settlement of the conflict.

Reprisal could be necessary in order to compensate a subject for different reasons. Some foreign princes proved unwilling or unable to respond to requests by a victim's prince. Reprisal was not preferable and only used as the final recourse for gaining redress for damages. Even if the initial request for compensation proved futile, princes could and often would reiterate their request for compensation without taking action. This becomes clear, for example, in a letter sent by King Edward III of England (r 1327–77) to Count William IV of Holland-Zeeland (r 1337–45) on 1 July 1343, in which Edward requested compensation for robberies committed by the count's subjects. When his first request failed, he appealed once more for compensation, adding that if his request was again ignored, he would resort to 'more stringent measures' that, most likely, implied the force of reprisal.²⁶ This threat was thus employed to apply diplomatic pressure to bring about resolution without actually issuing a letter of reprisal.

When diplomatic pressure proved futile, a prince could issue a warrant of arrest for the perpetrators or their fellow countrymen when spotted, for example in a port, in order to compensate a subject. In England, this seems to have been the norm.²⁷ For Holland-Zeeland we have only one, relatively late example from 1415, in which the count ordered his bailiffs, steward, sheriffs, judges and others servants to arrest English merchants in order to compensate the losses of one of his subjects.²⁸

Beyond issuing a warrant of arrest, princes could deliver letters of reprisal to the individual(s) who had suffered a loss. On 6 March, 1403, Albert of Bavaria, count of Holland and Zeeland (r 1358/1389–1404) issued such a letter in which all of his subjects were informed that Wysse Willemszone, a citizen of Middelburg, could arrest or seize the goods of subjects of the duke of Brittany. Willemszone held this privilege in the count's lands, waters or at sea, until revocation of the letter.²⁹ The count could thus hinder reprisal when circumstances demanded, for example, when negotiations resulted in an agreement and letters of reprisal were revoked in an effort to restore trade. The latter point is important as reprisal did not preclude the diplomatic resolution of conflict, as will be evident in the case of John Waghen.

Having described the basic procedure for reprisal, let us now examine the potential for abuse. Several historians have argued that there were no mechanisms to control abuse once letters of reprisal were issued. Timbal wrote that control of

²⁶BhESI, no 430; CCR, *Edward III AD 1343–1346* (Kraus Reprint, 1972) 219.

²⁷See Dick (n 13) 111.

²⁸BhESI, no 826.

²⁹See Sneller and Unger (n 8) no 76.

reprisal following a letter's issuance was not always optimal.³⁰ Likewise, Marsden and Chavarot found no traces of systematic control on reprisal in English or French cases respectively.³¹ However, we maintain that some degree of systematic control could be employed. Although it was impossible to ensure full control of reprisal given its execution by private individuals, systematic measures to prevent abuse were taken. Such measures were necessary because reprisals could instigate further unrest. Dick has argued that letters of reprisal did not endorse indiscriminate plundering. In England, one finds measures of control, including the inventory of goods in order to confirm that the correct merchants were robbed and the valuation of confiscated goods to ensure that compensation was proportional.³² We advance that such efforts were also employed in order to impede abuses in Holland-Zeeland.

Different measures prevented different forms of abuse. First, princes tried to prevent their subjects from exploiting letters of reprisal by inhibiting someone seizing more goods than allowed. In Holland-Zeeland, each time a letter of reprisal was issued, those arrested were to remain unharmed while their goods were to remain untouched and in the country. Those bestowed with a letter of reprisal, for example the abovementioned Willemszone, had to present the items confiscated before the count and his council. The latter, not Willemszone himself, would repay his losses and all expenditures in conducting the reprisal.³³ Thus, while reprisal itself was private, the count and his council controlled the final stages of the procedure. Additionally, a ruler could exclude certain merchants or towns from reprisals for various reasons, as will be demonstrated below. A 'fair' reprisal, that is one that allowed for compensation in correspondence with the damage suffered, was seen as important; injustice would only prolong and exacerbate the conflict. As with reprisals executed by individuals, Dutch counts issued warrants of arrest under the proviso that seized goods and detained individuals were to remain unaltered and unharmed until the count's council made a decision.³⁴

Another way of preventing abuse concerned the grievances that merchants directed at their offenders. It was conceivably easy to issue fake complaints in an attempt to obtain redress for non-existent losses. Naturally, princes did not always believe complaints at face value and could order investigations into the veracity of the victim's claims. Princes may have been more inclined to trust complaints issued by their own subjects than those filed by foreigners. King Edward III, for instance, commissioned Richard de Wylughby and five others to investigate a complaint of the merchant Jan Zeelander of Dordrecht on 18 June, 1352. Zeelander alleged that Reynald Kyng of Dersingham and others had seized his ship, valued

³⁰See Timbal (n 2) 130–31.

³¹See Marsden (n 12) 682; Chavarot (n 3) 84–85.

³²See Dick (n 13) 113–15.

³³See Sneller and Unger (n 8) no 76.

³⁴BhESI, no 826.

at £40, as well as his goods. The complaint also alleges that Zeelanders's crew had been so badly abused that he could no longer rely on them as crewmen.³⁵

The same caution was taken for complaints by foreign princes on behalf of their merchants. In response to a complaint levelled against Dutch robbers by King Edward I, Count William III of Holland-Zeeland (r 1304–37) explained on 1 November 1306, that he could not confirm that the robbers in question were his subjects, as he had expressly prohibited Dutch subjects from harming English traders. Promising to investigate the complaints, the count also complained of English robberies and requested that the king provide a date and location at which they could negotiate the matter.³⁶ In this case, the count was motivated to investigate the matter in order to substantiate his image as a just ruler, capable of protecting his subjects, especially as he drew attention to the misdeeds of Englishmen.

Princes could also support their subjects by requesting their foreign partners to conduct investigations. King Edward II (r 1307–27) did just that on 6 October 1310, after receiving news of injuries inflicted upon his subjects by those under the count's authority. He petitioned the count to acknowledge the complaints of his subjects and, when necessary, rectify injustices against them.³⁷ Investigation could also serve to make up for delayed reactions, such as when, on 16 May 1320, Count William III attempted to prevent retaliatory measures and facilitate negotiations with the English king by pledging to carry out investigations of wrongdoing.³⁸

Finally, investigation could be a necessary means of obtaining details in a subject's case. On 10 June 1344, for example, Edward III proclaimed that investigations revealed that Nichalas Scot of Newcastle has been robbed of his ship and cargo of hides and coal when on route to markets in Flanders. Having set sail on 10 September 1341, Scot's ship drifted to Brill, where on 5 May 1342, citizens of Dordrecht, Brill and Middelburg seized the ship, valued at £40, and wares, valued at £73. The king ordered the mayor and bailiffs of Newcastle, Lynn and Boston to seize goods until they collected a value of respectively £40, £40 and £33.³⁹ Investigations thus enabled the king to accurately determine the amount seized, thereby facilitating the fairer and more precise orchestration of reprisal.

As noted, reprisals and counter-reprisals posed threats to the normal flow of trade. Recognising the disadvantages posed to all parties, princes and merchants alike would eventually seek resolution through negotiation and agreement, regardless of the preceding conflict's duration and intensity. This is exemplified in an agreement between King Edward II and Count William III from 3 August,

³⁵BhESI, no 474; CPR, *Edward III Vol IX AD 1350–1354* (His Majesty's Principal Secretary of State for the Home Department, 1907) 332. In this case, the results of the investigation were unknown.

³⁶BhESI, no 163.

³⁷BhESI, no 199.

³⁸BhESI, no 284.

³⁹BhESI, no 437.

1309. Following years of controversy, theft and assault between merchants, Edward and William entered an agreement that promised compensation for all those victimised in the preceding period of disturbance.⁴⁰ While it is true that this agreement ultimately failed due to factors beyond the scope of the present study, we can see the rulers' preparedness in negotiating and establishing agreements that maintained or induced the restoration of trade. Regardless of the scale of conflict, the overall importance of trade took precedence over localised conflicts involving the interests of individual merchants. The following case study offers an opportunity to examine how differing interests influenced the resolution of conflicts between merchants and skippers.

III. The case of John Waghen from Beverley

As we have seen, resolving maritime conflicts often involved extensive negotiation between princes. Whereas those active in trade and shipping would rationally have preferred a peaceful and quick resolution of conflict in most cases, rulers were confronted with other, often greater interests than those of individual merchants. How and how quick a case was settled depended on a number of factors. Focusing on the case of John Waghen from Beverley, the following examines how differing interests influenced the way in which princes sought resolutions of conflict and damage redress. While John Waghen has been subject to previous investigation,⁴¹ our analysis should contribute new insights, especially in respect to the diplomatic dimensions of reprisal.

John Waghen (?–1431/32) was a merchant from Beverley, Yorkshire. Despite his modest family origins, Waghen ascended professional and political hierarchies to gain membership to the Corpus Christi guild in 1409, the office of chamberlain of York in 1413 and the sherifffdom of the same town in 1416/17.⁴² His case lasted from 1396 until 1415 and was the only known controversy of reprisal between England and Holland-Zeeland from this period. It was only during this period of conflict that Waghen received his office of chamberlain.⁴³ Waghen's case compares to other, earlier incidents, yet has been selected for analysis due to the relative wealth of surviving records and their unusually rich illustrations of Anglo-Dutch damage redress in the late-fourteenth and early-fifteenth centuries.

The conflict began sometime before 18 June 1396. On that date, Waghen complained of an unfulfilled payment in a letter to the archbishop of York, then the

⁴⁰BhESI, no 183.

⁴¹Most recently Dick (n 13) 130–36.

⁴²Charles Newby Wawn, *Wawn Family Records* (Sunderland: Hill Press, 1926–1931) parts 2, 3 and 4; David Crouch, *Piety, Fraternity and Power: Religious Medieval Guilds in Late Medieval Yorkshire, 1389–1547* (York Medieval Press, 2000) 284.

⁴³Jenny Kermode, *Medieval Merchants: York, Beverley and Hull in the Later Middle Ages* (Cambridge University Press, 1998) 325.

chancellor of England. The debtor, Pelgrim Florenszoon from Leiden in Holland, refused to pay 850 nobles for a bond issued for the purchase of wool from Waghen at the wool staple in Calais. Not only was Waghen unsuccessful in petitioning Leiden and Dutch count for redress, he also suffered further at the hands of a man from Delft, Diederijc Jacobszoon, who took Waghen's bond by force and threatened him with death if he returned. Seeking a resolution, Waghen requested that the English chancellor order the mayor and constables of Calais to seize the goods of merchants from Leiden.⁴⁴

As usual, action was not immediate. The English king first addressed the count of Holland-Zeeland. In a letter from 18 June 1396, King Richard II (r 1377–99) explained Waghen's case to Count Albert before requesting the count's assistance in ensuring justice for his subject.⁴⁵ Richard's letter was ineffective, however, and on 17 January 1397, the king issued a public statement recounting Waghen's failed petitions to the count of Holland-Zeeland and his losses still outstanding, which then totalled 852½ nobles 22d. Richard identified Florenszoon and Jacobszoon as perpetrators and explained that his own request for compensation from Count Albert had proven equally fruitless. Failing to resolve the conflict diplomatically, Richard thus issued letters of reprisal against all ships from Zeeland and Holland that were harboured, or would harbour in any English port. Dutch merchants, sailors and their goods were to be seized in order to compensate Waghen.⁴⁶ The letters of reprisal were not issued specifically to Waghen. Later sources in this case demonstrate that officials of coastal towns as well as Waghen and his retainers were permitted to carry out seizures by way of royal writ. Thus, both of the methods for reprisal outlined in the introduction – collective liability seizure and private repossessions – were sanctioned simultaneously.

Given the large scale of arrests, which concerned all Dutch vessels and sailors, one can imagine the consequences they had for those who traded with and were reliant on the imports of Dutch merchants. As important as Waghen's demand for compensation may have been, there were other, larger interests at stake. This appears to be the case when, on 7 March 1397, Richard II issued a letter to the mayor and sheriffs of London, in which he reiterated his warrant for the arrest of all merchants and goods from Holland and Zeeland and acknowledged that the town had rightfully arrested the ships of six Dutch merchants. However, the king's letters were not intended to authorise the seizure of ships and merchants carrying foodstuff. As a result, the six merchants were allowed to reclaim their cargo with eels and beer, sell it in London and depart whenever they desired.⁴⁷ Richard II wrote to the same mayor and sheriffs the very same

⁴⁴BhESI, no 741.

⁴⁵BhESI, no 742.

⁴⁶BhESI, no 745; CPR, *Richard II Vol IV AD 1388–1392* (Kraus Reprint, 1971) 91.

⁴⁷BhESI, no 746; CCR, *Richard II AD 1396–1399* (Kraus Reprint, 1972) 42.

day, this time suspending all arrests issued in the case of Waghen until further order.⁴⁸

Later that year, on 5 October, Richard II ordered the bailiffs of Scarborough and Whitby to release Dutch merchants arrested in line with Waghen's case for compensation. The king also clarified his decision, noting that the seized ships, among other things, contained salt, which was essential to the realm. Moreover, around 120 Dutch ships had abstained from entering English ports out of fear of arrest. Interestingly, the king did not suspend his order of arrest in Scarborough and Whitby as he had done previously in London.⁴⁹ It is evident that by this point, the demand for foodstuffs outweighed Waghen's campaign for compensation. It is unclear when exactly Richard announced the exemption of foodstuffs from his order; we have no official declaration speaking thereto, nor did he cite this when first issuing his letters of reprisal.

Trade with the Dutch continued in the years after 1397,⁵⁰ but on 27 October 1399, the new King Henry IV issued another sweeping order for arrests at Waghen's request. The king demanded his admirals, officials and other subjects to detain all merchants, skippers and goods from Holland and Zeeland, adding that his hand had been forced by the Dutch count's failure to provide justice in spite of Waghen's and Richard II's appeals.⁵¹

Not only was this renewal ineffective, the case experienced even greater stagnation. Waghen's case is only mentioned again explicitly in 1412. There are, however, two documents from 1400 and 1402 that suggest that arrests related to the case were still being carried out. Both explain that arrested (Dutch) merchants were to be released 'despite earlier edicts',⁵² which appears to be an allusion to the royal orders cited above. After 1402, there are no more traces of Waghen's case until 1412. Various customs accounts suggest that trade between Holland-Zeeland and England continued without significant disruption during this period. Dutch traders readily imported numerous other products that did not fall under the category of foodstuff.⁵³ Anglo-Dutch relations were quite amicable, in fact, as the Dutch count granted various rights to the English wool staple in Middelburg in 1407.⁵⁴ In 1411, William VI even requested compensation by King Henry IV for one of his subjects.⁵⁵ By this point, it seems, Waghen's case was long forgotten.

⁴⁸BhESI, no 747; CCR, *Richard II AD 1396–1399* (Kraus Reprint, 1972) 89–90.

⁴⁹BhESI, no 749; CCR, *Richard II AD 1396–1399* (Kraus Reprint, 1972) 161–62.

⁵⁰As becomes clear in BhESI, no 755.

⁵¹BhESI, no 758; CPR, *Henry IV Vol IV AD 1408–1413* (Kraus Reprint, 1971) 30.

⁵²See BhESI, no 759 (23 February 1400); no 760 (14 March 1400); no 762 (6 April 1400); no 763 (21 April 1400); no 765 (24 August 1400); no 766 (6 September 1400); no 767 (8 September 1400); no 769 (11 September 1400); no 772 (6 May 1401); no 779 (8 July 1402).

⁵³BhESI, no 782 (1401–03); no 783 (1401–03); no 842 (1406–07); no 867 (1408–09). These entries contain selections from Customs accounts. See also Kerling (n 17).

⁵⁴BhESI, nos 846, 851, 864. See also Kerling (n 17) 143–44.

⁵⁵BhESI, no 881.

Why did this case, which originally generated so much diplomatic activity, vanish from the English agenda for over a decade? One possibility is that the new English king was preoccupied with other, more pressing matters, including English rebellions, a war with the Scots and threats from the king of France in Gascony and Calais.⁵⁶ As these conflicts disrupted trade between England and those countries, England could not afford to lose the much-needed trade with Holland-Zeeland.⁵⁷ For the English king, such large-scale concerns took precedence over a case of redress for an individual merchant.

Waghen's case finally reappeared on 7 May 1412. The document even acknowledges the long suspension: King Henry IV wrote to Count William VI that his previous arrests proved to be of very little help for Waghen. In line with previous policies, he explained that the Dutch count's disregard for Waghen's appeals demanded the issuance of a new order for the arrest of all the goods belonging to the count's subjects.⁵⁸ This time, the king's order provoked a response from the Dutch count, who, on 30 October, explained that many of his subjects had suffered at the hands of Englishmen and that he must thus demand restitution for his aggrieved subjects. William VI also confirmed to have received Henry IV's letter announcing the latter's suspension of arrests until the count could provide more information on the case and, for that reason, provided his own version of events. Curiously, William's account differs from Waghen's description of the incident from 1396. According to the count, Waghen was to receive 852 nobles from Florenszoon from Leiden and, in order to collect his money, had given his bond to Jacobszoon. Jacobszoon then sold the bond to Florenszoon, but kept the money for himself. Thus, the count did not regard Florenszoon as an offender. William VI claimed that he would order his officials to assist Waghen in every possible way – including by taking Jacobszoon's goods and giving them to Waghen. The count closed by expressing his wish that the English, 'who could trade nowhere more freely than in his realm', had reacted less harshly, as many of his subjects had suffered damage as a result.⁵⁹

What were the king's motives for readdressing Waghen's case in 1412, apart from the overall alleviation of turbulence in the king's domestic and foreign affairs?⁶⁰ Although speculative, it is possible that Waghen's position as chamberlain of York as well as his membership in the Corpus Christi Guild of York, which had many influential members,⁶¹ from 1409 onwards accelerated the case's

⁵⁶E.g. Edward Powell, 'Lancastrian England' in Christopher Allmand (ed), *The New Cambridge Medieval History* VII (Cambridge University Press, 1998) 457–76; BhESI, 504 n 1, 505 n 2.

⁵⁷See Kerling (n 17) 134.

⁵⁸BhESI, no 891; CPR, *Henry IV Vol I AD 1399–1401* (His Majesty's Principal Secretary of State for the Home Department, 1908) 397–98.

⁵⁹BhESI, no 897; see Scott and van Severen (n 8) 332–34.

⁶⁰See Powell (n 56) 458–60.

⁶¹See Crouch (n 42) 170–84.

reopening. Waghen was, in any event, building a career and expanding his influence over wider networks.

Despite William's promise, Anglo-Dutch trade suffered in the wake of conflicts between merchants, some of which arose from Waghen's right to carry out reprisal. As a result of these troubles, William wrote to King Henry V (r 1413–22) on 1 May 1413, announcing that complaints by his subjects compelled him to send his secretary, Dirc Potter,⁶² to the English court. He requested that Henry give ear to his envoy and provide redress for English transgressions.⁶³ This marked the beginning of a series of negotiations between the royal and comital courts aimed at resolving conflicts between their merchants.⁶⁴

Sources do not reveal how negotiations proceeded or what exactly they achieved. However, an announcement by the count's council in March 1414 suggests that the negotiations succeeded in bringing about a resolution. In addition to two other cases involving the arrest of Dutch offenders, the announcement includes an interesting statement concerning Waghen's case. According to the council, the city government of Leiden had declared that any further legal measures against their burgher Florenszoon would infringe on the city's privileges.⁶⁵ This suggests that the count, who had previously vouched for Florenszoon's innocence, indeed took measures against him. Negotiations with England may have changed his opinion on the matter. In the same statement, the council explained that, while unable to take measures against Florenszoon, Jacobszoon was imprisoned at the expense of Holland's treasurer and would remain so until he could repay what was owed to Waghen.⁶⁶ Although speculative, Jacobszoon and Florenszoon may have conspired in cheating and robbing Waghen.

Meanwhile, Waghen was in apparent need of money, possibly due to the robbery. On 4 March 1414, Waghen was paid a sum of 22s for his finances were still exhausted despite his long campaign for compensation.⁶⁷ This not only demonstrates that Waghen was still active in seeking justice, it also shows some willingness to help on the part of Dutch officials.

Although Jacobszoon was arrested, the case was not resolved. Waghen was apparently displeased by the count's inability to bring Florenszoon to trial. After all, he had not yet received redress and was still in dire need of money. On 14 May 1414, King Henry V ordered, at the request of Waghen, his admirals and officials to seize ships and goods coming from Leiden. After that, they should turn over the seized goods to Waghen or his attorneys, until the outstanding 852½

⁶²Dirc Potter is better known as a literary author, see Frits van Oostrom, *Het woord van eer. Literatuur aan het Hollandse hof omstreeks 1400* (Meulenhoff, 1988) 225–68, 262.

⁶³BhESI, no 906.

⁶⁴BhESI, p 569, n 1.

⁶⁵BhESI, no 920.

⁶⁶BhESI, no 920.

⁶⁷BhESI, no 924.

nobles and 22d, as well as additional expenses, were fully compensated. As usual, the king demanded periodic updates on these arrests.⁶⁸ Although this arrest order was directed specifically at ships and goods from Leiden – possibly in an effort to disrupt trade as little as possible – it proved necessary to adjust the scope of the order as it began to infringe on other interests. On 24 July, King Henry V demanded the mayor of Calais to ensure that the letters of reprisal issued on Waghen's account would not be used to seize foodstuff or other merchandise brought to the market of Calais by Count William or his subjects.⁶⁹ Soon after, on 8 August, Henry prohibited his admirals and officials from arresting any merchants of Leiden that sailed to or departed from the staple of Calais, be they on land or in open waters.⁷⁰ Trade between Calais and Leiden was apparently valued too greatly to be disrupted for Waghen's benefit.

The arrest order by Henry V proved ineffective in addressing Waghen's loss. Later that year, on 5 December, the king again mandated his admirals and other servants to seize all ships from Leiden until Waghen had been fully compensated.⁷¹ Soon after, however, it was again apparent that merchants from Leiden were too important for London, and on 2 January 1415 Henry V ordered the release of all ships and sailors seized in London. Merchants from Leiden, he added, come and depart London freely. Despite this, Waghen's letters of reprisal remained in effect.⁷²

At last, on 6 March 1415, Count William was willing to initiate a decisive resolution of the conflict and provided Waghen with a safe conduct in order to obtain justice and compensation from Florenszoon and Jacobszoon. In an effort to expedite Waghen's efforts, the count ordered all of his judges to resolve Waghen's case without further delays.⁷³ The case was finally settled later that month. We know this thanks to an item in an account of the council of Holland that records that Waghen, 'who was responsible for a great amount of seizures and arrests on

⁶⁸BhESI, no 921; CPR, *Henry V Vol I AD 1413–1416* (Kraus Reprint, 1971) 189.

⁶⁹BhESI, no 922; CCR, *Henry V Vol I AD 1413–1419* (His Majesty's Stationery Office, 1929) 137. The texts from the BhESI and the CCR contradict each other on the point of whether or not only victuals were to be excluded from the arrest. Comparison with the transcription of the original Latin texts shows that the CCR is correct: see van Mieris (n 8) 291.

⁷⁰BhESI, no 923; CCR, *Henry V Vol I AD 1413–1419* (His Majesty's Stationery Office, 1929) 140.

⁷¹BhESI, 926; CPR, *Henry V Vol I AD 1413–1416* (Kraus Reprint, 1971) 269. The CPR refers to another order of arrest that was specifically directed at merchants from Leiden. It is unclear whether this is again the case or not. The BhESI just states that this order is directed at all ships and sailors coming from Holland. However, the CCR, *Henry V Vol I AD 1413–1419* (His Majesty's Stationery Office, 1929) on p 165 refers to letters of marque that are granted against the town of Leiden. Therefore, we suspect that the ordered arrest on 5 December was indeed only directed at the citizens of Leiden.

⁷²BhESI, no 927; CCR, *Henry V Vol I AD 1413–1419* (His Majesty's Stationery Office, 1929) 165. The BhESI omits the fact the letters of marque of Waghen were only directed at the citizens of Leiden.

⁷³BhESI p 574, n 2.

subjects of the Dutch count as he failed to obtain money from Jacobszoon and Florenszoon', was compensated by the *burggraaf* ($\approx$ viscount) of Leiden and the treasurer of Holland, who had assumed Waghen's claim against Jacobszoon and Florenszoon. In turn, Waghen pledged with a sealed letter that he considered the case resolved and, given his compensation, would no longer harass the count's subjects.⁷⁴

The resolution of this case is very interesting. In taking over Waghen's demand for payment by Jacobszoon and Florenszoon, the *burggraaf* and the treasurer reduced the case from an international to a local affair within Holland. This conforms to a normative model in which the 'victim' of reprisal could seek damage redress by filing a claim against the original wrongdoer within his own country, region or jurisdiction.⁷⁵ How often this occurred in practice is a matter for discussion.⁷⁶ That question notwithstanding, the *burggraaf*'s and treasurer's willingness to assume responsibility for Waghen's claim is striking as it reveals the power of authorities in resolving private conflicts involving their subjects. By compensating Waghen, the Dutch count protected his subjects while restoring a mutually-beneficial flow of commerce.

IV. Conclusion

There were no straightforward means by which individuals involved in Anglo-Dutch trade could obtain redress for damages incurred during conflicts. In all cases, reprisal remained a last resort, a point that confirms the legal doctrine described by Bartolus. Before letters of reprisal were actually issued, complaints prompted officials to investigate the charges and drove victims and rulers to issue multiple requests for restitution. The first allusions to reprisal served as a warning and a means of pressuring opposing rulers to take action. When the right to carry out reprisal was finally granted, either via arrests or by private action, precision remained a principal concern. This explains why princes controlled the repayment of individuals even when the latter carried out the seizures without the assistance of civic authorities.

While this underscores the great effort invested in ensuring a peaceful settlement of a conflict, the case of John Waghen illustrates the difficulties in bringing about such resolutions in practice. Victims like Waghen needed patience and perseverance in their efforts to garner support of the respective rulers. Waghen's redress of damage was initially postponed by an unwilling Dutch count, and

⁷⁴BhESI, no 930. The exact date of the resolution is unknown. However, the other items suggest that it happened quite soon after 6 March. At least this statement was made no later than 28 July 1415. The reason we find Waghen's case in the account is because a hosteller (*waard*) was paid by the count who had acted on Waghen's behalf in the case.

⁷⁵See Lokin and Zwalve (n 3) 113–14.

⁷⁶See also the article of Javier Añibarro Rodríguez on *Cuatro villas* in northern Castile in this issue.

even when letters of reprisal were granted by the English king, broader economic concerns overrode and delayed pursuance of Waghen's case. The king prioritised other, more pressing matters, such as the continuation of trade and imports of foodstuff to the city of London, thus deferring what was hoped to be a quick resolution of the case. Dutch imports of foodstuff outweighed the damage redress of a single merchant. In addition to the inactivity and restrictiveness of rulers, the jurisdictional privileges enjoyed by the alleged offender's hometown, and the near immunity these afforded him, proved to be further obstacle for redress. In the end, Waghen's perseverance proved to be worthwhile. The numerous arrests of Dutch merchants and goods that his case initiated in England eventually compelled a resolution of Waghen's case, one which the Dutch count and *burggraaf* of Leiden successfully administered on Waghen's behalf. As in England, concerns about the state of foreign trade were prioritised in the Low Countries. With broader Dutch trade interests in England at stake, officials recognised that the wider benefits of commerce outweighed the singular costs of damage redress for Waghen.

Anglo-Dutch practices for reprisal in the fourteenth century were far more than ultimate or desperate remedies for damage redress. They served as a means of persuasion for both the king of England and the count of Holland and could be employed in support of their respective citizens and their ventures on either side of the North Sea. Both rulers acknowledged the complaints of merchants and skipper under the authority of the other party and engaged one another diplomatically in turn. This suggests a mutual awareness of their shared interest in Anglo-Dutch trade. These diplomatic relations, which were initiated by merchants, can be viewed as expressions of bottom-up diplomacy. As the case of Waghen illustrates, this did not necessarily facilitate an easy or swift redress of damages for the victim. But it does suggest that Anglo-Dutch diplomacy could serve to foster commercial relations between the two countries.⁷⁷ Although rulers prioritised the more general interests at stake in Anglo-Dutch trade, such as the sustenance of London and other English cities, over the interests of an individual merchant, ongoing diplomatic contacts eventually enabled individuals to pursue their campaign for damage redress with a reasonable chance of success. As is illustrated in Waghen's case: determination was key. It is striking that Waghen, who may not have been a very important merchant (at least not when the case was initiated), could rely on the support of his king in seeking compensation for his loss, even as several factors limited the king's latitude in this respect. Waghen's case illustrates how rulers employed diplomacy to prevent isolated cases from spiralling into a larger economic and political crises, thus demonstrating a clear preference for peace. Waghen's case did little long-term damage to the state of Anglo-Dutch relations.

⁷⁷On diplomacy and commerce in medieval Atlantic Europe see Jesús Ángel Solórzano Tel-echea, Beatriz Arizaga Bolumburu and Louis Sicking (eds), *Diplomacia y comercio en la Europa atlántica medieval* (Instituto de Estudios Riojanos, 2015).

In actively seeking damage redress, authorities on both sides, that is to say the rulers and their supporting cast of councilmen and officials, enhanced their control over their citizens and over foreigners doing business within their territories. This also allowed rulers to employ this authority in diplomatic engagements demanding appreciation for and the judicious balance of different and at times conflicting interests. Finally, it made their territories more attractive for trade, as visitors were more easily reassured and encouraged by support extended by their foreign hosts.

Disclosure statement

No potential conflict of interest was reported by the authors.