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Combating "Maritime Terrorism" off the Coast of Somalia

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Combating “Maritime Terrorism” off the Coast of Somalia^{*}

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Abstract

This paper evaluates the effectiveness of the international naval mission in the Gulf of Aden from 2008-2010, both in terms of its counter-piracy and its counter-terrorism objectives. We draw on arguments developed in the literature of law and economics, detailed statistical analyses and a large number of in depth interviews. Counter-piracy operations are a qualified success: their main effects are the stabilisation of attacks at a high level and the substitution between the relatively well protected transit corridor in the Gulf of Aden and the open sea. However, the counter-piracy measures appear to deter pirates from forming alliances with Islamist movements and may therefore make a major contribution to international security.

Keywords: Piracy, Somalia, counter-terrorism, law and economics, deterrence, naval intervention.

JEL Codes: K42, O17, F19

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1. Introduction

Piracy off the coast of Somalia has raised the cost of transporting goods through the Gulf of Aden considerably¹. It is perceived as a potential threat to world trade, given the importance of the Gulf of Aden route for oil and general cargo shipments to Europe.² Of even greater concern is its potential impact on international security and regional stability. It is feared that Somali piracy might supply weapons to or become a source of finance for (regional or international) terrorist organisations such as *Al Shabab* and *Al Qaeda* and fund Islamist insurgencies across Africa. As a worst-case scenario, sea-borne terrorists could use boats with volatile cargo to devastating effect in crowded shipping lanes and harbours or create major hazards by sinking large ships in narrow shipping lanes (Murphy, 2007; Menkhaus, 2009; Alexander and Richardson, 2009; Stephenson, 2010).

We have therefore seen an unprecedented degree of co-operation of the world's naval forces with the aim of protecting ships transiting the Gulf of Aden (Kraska 2009; Kraska and Wilson 2009). The US, NATO, the EU are leading co-ordinated counter-piracy programmes centred on the time-honoured naval tactic of concentrating ships in a narrow and therefore relatively well protected transit corridor. Several other national fleets provide additional services for vessels carrying their national flags or otherwise requesting urgent assistance. Many shipping companies have over time improved their practices and have invested in self-defence measures, raising the stakes for pirates. In April 2010 the US also started to tackle the piracy problem at its root, by making it more difficult to pay ransom to a number of named "pirate kings".³

In contrast to the existing literature which in the main discusses the effectiveness of these counter-piracy efforts qualitatively,⁴ we quantitatively examine the period of high intensity counter-piracy operations since 2008.⁵ After a brief discussion of piracy and counter-piracy efforts off the coast of Somalia we develop a number of testable hypotheses based on the

¹ US Department of Transportation, *Economic Impact of Piracy in the Gulf of Aden on Global Trade*, Dec. 2008, at http://www.marad.dot.gov/documents/HOA_Economic%20Impact%20of%20Piracy.pdf

² United States National Security Council (2008): *Countering Piracy Off the Horn of Africa: Partnership & Action Plan* at http://www.marad.dot.gov/documents/Countering_Piracy_Off_The_Horn_of_Africa_-_Partnership_Action_Plan.pdf

³ Ince & Co, *Piracy - US Presidential Order on payment of ransoms and recent developments*, Articlesbase.com, Sep. 14, 2010, at <http://www.articlesbase.com/law-articles/piracy-us-presidential-order-on-payment-of-ransoms-and-recent-developments-3264291.html>

⁴ See for example Treves (2009), Gathii (2010) and Roach (2010) approaching the issue from a legal point of view and the qualitative discussions in Murphy (2010), Stephenson (2010) and Menkhaus (2009).

⁵ Percy and Shortland (2010) evaluate monthly statistics from January 2000 – June 2009.

arguments provided by the literature on the economics of crime. We investigate which of the counter-piracy measures employed by the international community have had significant (deterrent) effects on pirates by raising the risks of disruption, detection and punishment.

We statistically examine the pattern of attacks off the coast of Somalia from January 2008 to June 2010. We interpret the results drawing on information collected in a large number of in-depth interviews conducted with those involved in the naval counter-piracy missions, lawyers, risk analysts and captains. We show that the transit corridor in the Gulf of Aden had the expected and desired effect of aiding the naval forces to come to the rescue of ships under attack and the number of successful attacks in this region has been reduced. However, the transit corridor had no (statistically significant) effect on the number of attempts made by pirates in the Gulf of Aden. This suggests that many pirates are not deterred from trying their luck right under the noses of the international naval forces. Although pirates avoid high risk activities, the “catch and release” policy dictated by international human rights laws is clearly not an effective deterrent. Improvements in private sector defensive measures (and the more “robust” policies of the Indian, Chinese and Russian naval forces in 2010) have not resulted in a greater effectiveness of the transit corridor over time either, because pirates have also changed their tactics in response.

There is, however, a clear geographical substitution effect in response to the naval measures. Attacks and successful hijackings have risen in the open sea stretching as far South as the Maldives and the Mozambique Channel and as far East as the coast of India.⁶ Our results suggest that the threat of trial in Kenya may be diverting experienced pirates - who are likely to face prosecution and imprisonment if caught. New entrants continue to prefer the easier conditions for piracy in the Gulf of Aden, despite the risks of disruption.

We cannot statistically identify an effect of the new US ransom policy so far. Qualitative analysis shows that a unilateral policy initiative of this type is unlikely to succeed, because successful acts of piracy generally affect a large number of international stakeholders and the ability of US insurers to contribute to the final settlement is (so far) irrelevant to the ransoming process. As long as ransoms can be negotiated from somewhere and are ultimately

⁶ See Carolyn Bandel and Kevin Crowley, *Somali Pirate Attacks Sink Premiums as Insurers Leap Aboard*, Bloomberg.com, Aug. 3, 2010, at <http://www.bloomberg.com/news/2010-08-02/somali-piracy-attacks-surge-premiums-sink-as-more-insurers-leap-aboard.html>; and Nick Childs, *Navies struggle with 'swarming' pirates*, BBC.co.uk, April 1, 2010, at <http://news.bbc.co.uk/1/hi/8598726.stm>

paid by someone, pirates (and their victims) do not change their behaviour, leaving the business intact.

Overall, the results presented here provide a useful check of the effectiveness of traditional defensive measures in the face of a non-traditional threat. Many Somalis are not deterred by encountering naval forces operating at the highest international human rights standards. To the extent that there is deterrence, the well protected targets are easily substituted, either by preying on the badly prepared and unprotected or by avoiding the protected region altogether. Somali piracy therefore demonstrates the vital importance of private sector willingness to cooperate with the military to deny attackers an easy prey. The results also demonstrate the fundamental problem of unilateral policies on ransom payments.

On the other hand, it can be argued that the threat of escalating military violence and the demonstration of superior fire-power has crucially contributed to piracy remaining a business rather than becoming allied to violent insurgent movements. Pirates are extremely careful about managing their image and resist contacts with Islamist movements. We therefore propose that while the success of the counter-piracy operations is strictly limited, this may be more than outweighed by their (unsung) success as a counter-terrorism measure.

The paper is structured as follows. Section 2 sets the scene by providing an overview of Somali piracy and counter-piracy measures. Section 3 reviews the literature on counter-terrorism policies and the economics of criminal behaviour. We apply the latter to Somali piracy to formulate our research hypotheses. Section 4 introduces the data and the statistical model used to test the hypotheses and presents the results. Section 5 concludes with a discussion of the results.

2. Somali Piracy and Counter-Piracy

2.1. Background of Somali Piracy

Piracy in Somalia dates back many years. According to Murphy (2010), dhows and fishing vessels were occasionally attacked off the coast of Somalia even during the 1950s. The roots of the current problem, however, lie in the collapse of the Somali state in 1991 when struggles between clans for political influence and supremacy erupted into a full blown civil

war. International interventions to place and support a central government in Mogadishu proved futile (Menkhaus, 2007). Even in 2010 the prospects for a united well-governed Somalia are remote.⁷ Instead the country can be roughly divided into three parts: the relatively stable Somaliland in the North, the anarchic Southern Somalia and the Puntland region in the middle (Coggins, 2010). The transitional federal government in Mogadishu is an irrelevance for most of the country and its influence is disputed even within the city's boundaries by Islamist militias, despite military support from the African Union. In Somaliland and Puntland governance is provided by clan structures. In Southern Somalia (and occasionally in the Southern part of Puntland) governance is contested between local warlords and Islamist forces.

Piracy has established itself as a major business in the Puntland region of Somalia. State failure had resulted in a power vacuum on the high seas, leaving the international fishing fleets free to exploit Somalia's rich fishing grounds and for ships to dump toxic cargo in the region.⁸ Exasperated Somali fishermen initially attacked foreign trawlers to extract "fines" at knifepoint. This developed into extortion and hostage-taking. Eventually local militias began to enter into the piracy business and began to target ships entirely unconnected to the initial grievance in the busy shipping lanes of the Gulf of Aden (Menkhaus, 2009). Even the ships of the World Food Programme delivering much needed aid to impoverished and displaced people in Somalia have been attacked.⁹

Pirates take advantage of the easy availability of weapons and men trained in their use, as well as the abdicated governance in Puntland. Local elites share in the proceeds of piracy and therefore leave pirates to negotiate ransoms in peace from ships openly moored a few nautical miles off the coast for periods of several months (Menkhaus, 2009). Local communities are employed in the guarding and feeding of hostages, the negotiation of ransoms and benefit from the secondary effects of pirates spending their ransoms on locally produced goods and services (as well as beautiful brides). Successful pirates are a role model to underemployed

⁷ See also Jeffrey Gettleman, *In Somalia, Those Who Feed Off Anarchy Fuel It*, Nytimes.com, April 25, 2007, at <http://www.nytimes.com/2007/04/25/world/africa/25somalia.html>

⁸ Ishaan Tharoor, *How Somalia's Fishermen Became Pirates*, Time.com, April 18, 2009, at "[How Somalia's Fishermen Became Pirates](#)"

⁹ Diane Penn, *Pirates could affect food delivery to Somalia – WFP*, United Nations Radio, April 15, 2009, at <http://www.unmultimedia.org/radio/english/detail/72967.html>

men in the region and profits are re-invested into an ever expanding piracy business.¹⁰ Diagram 1 shows the evolution of piracy off the coast of Somalia since 2000.

2.2. The Practice of Somali Piracy

The basic style of Somali pirate attacks has been constant over time, though equipment and weapons have been upgraded over time and tactics have been developed to strike ever further away from the Somali coast.¹¹ Pirates attack their prey from small, open, highly powered fishing boats, known as skiffs. One or two skiffs will generally provide fire cover for the “attack skiff(s)”, which catch up with the target and enter the ship using ladders. Once on board, pirates take the crew hostage and command the crew to steer the ship towards the Puntland coast.

On arrival part of the crew is removed from the ship (most often this includes the captain) to discourage rebellion among the hostages and potential rescue attempts by the international naval forces. The owner of the ship is contacted and an exorbitant ransom demand is made, which is then bartered down over the following months until agreement is reached.¹² Somali pirates appear to operate with a strict code of conduct, which compels them to keep their hostages alive and in reasonable condition. In the absence of an infrastructure which would allow them to steal and market cargo from the ships, the crew are the “goods” in the Somali piracy business and Western nationals fetch a high price. However, occasionally rough treatment occurs when ransom negotiations are stalled.¹³ When the ransom is delivered (by speedboat initially and more recently by air-drop) the ship and crew are released, often to be escorted away by the naval forces. This prevents opportunistic rival pirates from taking advantage of slow ships run by traumatised crews in the direct vicinity of the coast.

A variant of this pattern occurs where fishing vessels (or dive-boats) are hijacked for the purpose of using the vessel as a “mothership”. Here the crew is often simply locked away while the pirates use the hijacked vessel to move around shipping lanes unrecognised by the

¹⁰ See Jeffrey Gettleman, *The Pirates Are Winning!*, The New York Review of Books, Oct. 14, 2010, at <http://www.nybooks.com/articles/archives/2010/oct/14/pirates-are-winning/?pagination=false>; and Jamal Osma, ‘We are hungry. There is no government, no economy, so it is a good way to earn money’, The Times, Dec. 12, 2008, at <http://www.timesonline.co.uk/tol/news/world/africa/article5327626.ece>

¹¹ Interview with Captain Farrington.

¹² Interview with Stephen Askins.

¹³ See Shortland and Percy (2010)

naval forces or to cover long journeys through the Indian Ocean. They only launch the attack skiffs when a suitable opportunity presents itself. The “motherships” are mostly simply abandoned, when they are no longer needed, or when their stores and fuel run out, or when naval forces become suspicious of them.¹⁴

2.3. Naval Counter-piracy Measures

Western Navies forming the Combined Task Force 150 have been monitoring suspect shipping off the Somali Coast and the Gulf of Aden from their base in Djibouti since May 2002.¹⁵ Their main task was to support US operations in Iraq and the Combined Task Force 150 (CTF 150) did not initially have a specific counter-piracy mission.¹⁶ Warships only intervened occasionally to provide assistance to attacked ships in their vicinity. Somali piracy was not considered to be a significant problem beyond the shipping community. This perception began to change with pirate attacks on UN aid ships bound for Somalia in 2006 and 2007 and a drastic increase in hijackings in 2008. This led to the implementation of the Marine Security Patrol Area in August 2008 by the CTF 150, diverting shipping traffic in the Gulf of Aden into a corridor closely following the Yemeni Coast.¹⁷

International public opinion hardened after the hijacking of the MV Faina in September 2008. There were serious concerns that the Ukrainian freighter’s cargo of tanks, heavy weapons and ammunition could fall into the hands of Somali Islamist forces, some of which were linked to Al Qaeda. US warships escorted the Faina and prevented the unloading of the cargo. The idea of taking the “War on Terror” to Somalia and combating “maritime terrorism” using naval forces was born.

The hijacking of the MV Faina was therefore followed by the adoption of four United Nations Security Council Resolutions in October 2008, giving a legal basis for extensive

¹⁴ See BBC News, *Somali pirates free hijacked Pakistani 'mother ship'*, Jan. 5, 2010, at <http://news.bbc.co.uk/1/hi/world/africa/8441855.stm>; EU NAVFOR, *EU NAVFOR Rescues Iranian Crew Left To Die By Somali Pirates*, March 22, 2010, at <http://www.eunavfor.eu/2010/03/eu-navfor-rescues-iranian-crew-left-to-die-by-somali-pirates/>; and EU NAVFOR, *Iranian Dhow Released By Pirates*, March 18, 2010, at <http://www.eunavfor.eu/2010/03/iranian-dhow-released-by-pirates/>

¹⁵ See Combined Maritime Forces webpage on Combined Task Force 150, at <http://www.cusnc.navy.mil/cmf/150/index.html>

¹⁶ Operation Iraqi Freedom, Operation Enduring Freedom

¹⁷ Diagram 2

naval counter-piracy operations off the Horn of Africa.¹⁸ The UN resolutions allow the naval forces to capture pirates in Somalia's territorial waters rather than being limited to pursuing piracy on the "high seas" (Roach, 2010). Nato's Operation "Allied Provider" was the first task force to be formally deployed in October 2008 to patrol the waters around Somalia.¹⁹ This was quickly followed by the establishment of the first ever European Union joint naval operation, EU Atalanta in December 2008. Its mandate is to contribute to the protection of humanitarian aid vessels, aiding vulnerable shipping and to "help deter, prevent and repress acts of piracy and armed robbery"²⁰ In January 2009 the Combined Task Force 151 was established to conduct counter-piracy operations with a mandate to "actively deter, disrupt and suppress piracy in order to protect global maritime security."²¹ Over time, naval forces from other countries such as India, China and Russia have also built up a presence in the Gulf of Aden, loosely co-operating with the Western alliances. More than 30 states are now represented in the Gulf of Aden (Roach, 2010).

The corner-stone of naval counter-piracy measures off the coast of Somalia is the Internationally Recommended Transit Corridor IRTC, implemented in February 2009.²² Despite the unprecedented degree of international naval co-operation, the density of war-ships is not high enough to offer escorted convoy services through the high risk region. Instead the navies operate a system of "area protection", spacing the available equipment along the corridor, so as to be in the best possible position to come to the aid of attacked vessels. The corridor thereby enables naval forces to perform well on the main target on which their work is evaluated: the number of disrupted pirate attacks. However, it relies crucially on the active involvement of the private sector: captains need to delay pirates from boarding until the armed forces arrive. If pirates have successfully boarded before the naval forces arrive and have at least one crew member under their control, in general no rescue attempt will be made.²³

¹⁸ SC Res. 1814, 1816, 1838 and 1846. See Treve (2010) and Roach (2010)

¹⁹ See NATO webpage on Counter-piracy operations, updated April 2, 2009, at <http://www.nato.int/issues/allied-provider/index.html#Provider>

²⁰ See EUNAVFOR webpage on the European Union Naval Operation Against Piracy, at <http://www.eunavfor.eu/about-us/mission/>. During 2010 a new mandate was added, i.e. "monitor fishing activities off the coast of Somalia"

²¹ See Combined Maritime Forces webpage on Combined Task Force 151, at <http://www.cusnc.navy.mil/cmf/151/index.html>

²² See diagram 2

²³ The exceptions to this rule have been a number of rescues of hijacked yachts which present a very high risk to the crew.

The second aspect of the naval counter-piracy mission has been the arrest and trial of (suspected) pirates. However, this has been fraught with implementation difficulties. It is notoriously difficult to prove in court that someone is in fact a pirate. It is currently disputed whether someone can be punished for attempted piracy – and if so how attempted piracy should be defined.²⁴ The crews of suspicious skiffs which are arrested by the naval forces therefore know that it is unlikely that they will be detained if they have jettisoned their equipment of weapons and mobile phones (which may link them to previous incidents). Suspected pirates who claim to have been “fishing” or “trading” or even “trafficking humans” are therefore let go with enough food and fuel to get them back home. The naval forces investigation of “suspicious vessels” and chasing of pirates after aborted attacks is therefore commonly referred to as “catch and release”.²⁵

Basically it is only possible to convict pirates who have been caught in the act of successful piracy – i.e. those arrested in rescue missions. This in turn generates another problem: for a Somali man the prospect of spending a few years in a Western prison followed by political asylum in a Western country may in fact not be a deterrent at all, but the ultimate prize.²⁶ To get around this problem a deal was struck with Kenya to bring pirates to trial there. On the positive side, pirates apparently find the prospect of Kenyan prison unattractive.²⁷ This is not surprising given the conditions in Kenyan prisons described by Gathii (2010). Kenya’s justice system is slow and inefficient, trials are delayed by a massive backlog of cases and there were concerns about the maltreatment of prisoners. On the other hand the trials in Kenya are not particularly successful. Ship-owners resent the time and effort involved in having their

²⁴ See Keith Johnson, *Who's a Pirate? In Court, A Duel Over Definitions* Wall Street Journal 20 August 2010; http://online.wsj.com/article/SB10001424052748703988304575413470900570834.html?mod=WSJ_hpp_L_EADNewsCollection

²⁵ See Roach (2010); Jon Ungoed-Thomas and Marie Woolf, *Navy releases Somali pirates caught red-handed*, The Sunday Times, Nov. 29, 2009, at <http://www.timesonline.co.uk/tol/news/world/africa/article6936318.ece>; and Nick Britten, *Navy regularly releases Somali pirates, even when caught in the act*, Telegraph.co.uk, Nov. 29, 2009, at <http://www.telegraph.co.uk/news/worldnews/piracy/6684210/Navy-regularly-releases-Somali-pirates-even-when-caught-in-the-act.html>.

The Combined Maritime Forces reported on 23 October 2009 that 611 pirates were encountered between 22 August 2008 and 23 October 2009. Of these 358 were immediately released. Consolidated statistics report 1437 pirates encountered by naval forces and released without charge. Source: Bruxelles 2, *Bilan des opérations anti-piraterie*, at <http://www.bruxelles2.eu/bilan-des-operations-anti-piraterie-eunavfor-atalanta-ctf-otan-russie-exclusif>

²⁶ Interview with risk consultant

²⁷ Interviews with naval officers.

crews testify and trials collapse for lack of witnesses.²⁸ The Combined Maritime Forces reported on 23 October 2009 that 24 out of 59 trials since August 2008 had resulted in the release of the pirates. Moreover, the Kenyan authorities are not always willing to take additional pirates, leaving naval captains holding their detainees on board for extended periods. If this occurs, the chances of a successful trial become even more remote given legal rules in most countries about the length of time people can be held without charge or access to legal advice. Often the best option becomes to simply release the suspects.

It is therefore questionable to what extent the naval forces manage to generate a significant deterrent effect, being bound by international human rights legislation and domestic legal rules. In the context of violent and lawless Somalia these sanctions may be perceived to be toothless.²⁹ On the other hand, pirates may respond to changes in the risk of disruption, because the loss of pirate equipment itself may be a significant deterrent. They may also respond to changes in the willingness of their targets to invest in on-board defence systems.

2.4. Private Counter-piracy Measures

The ransom is only a (small) part of the cost of having a ship hijacked. The sum of the loss of earnings during months of negotiations, the cost of delivering the ransom, the problem of distressed cargo (because it deteriorates or because delivery contracts are breached), the damage to the ship during the take-over and during the occupation by Somali pirates / armed guards and the medical and mental health costs for the released crews are generally a multiple of the ransom paid to the pirates.³⁰ However, for a ship-owner these risks are insurable. Every ship-owner has to separately insure hull, cargo and crew and a “war” premium is payable on routes through high risk areas. Insurers (eventually) compensate ship-owners for their losses, once the contributions of the individual insurers are agreed. Alternatively, ship-owners can take out special “hijack and ransom insurance”, which immediately covers the

²⁸ Keith Johnson, *Who's a Pirate? In Court, A Duel Over Definitions*, The Wall Street Journal, Aug. 20, 2010, at http://online.wsj.com/article/SB10001424052748703988304575413470900570834.html?mod=WSJ_hpp_LEADNewsCollection

²⁹ An assertion made by Roach (2010).

³⁰ The ballpark figure is that on average the ransom is only 20% of the costs generated by a hijack (Van der Meijden, 2008).

costs associated with a hijack as well as protecting a ship-owner's no claims bonus vis-a-vis his other insurers.³¹

For a ship-owner the question therefore arises to what extent he should compel the crew to take active or passive counter-piracy measures, or gamble that his ship will not be one of the tiny minority which is successfully attacked - and relying on insurance if it happens.³² Driving a zig-zag course at high speed and displays of crew alertness are often sufficient to shake off pirate attacks.³³ Beyond this, private counter-piracy measures put a huge burden on the crew.³⁴ For a crew including nationals from a rich country it is arguably preferable to go through the ransoming process, rather than offering resistance.³⁵ Injuries and deaths tend to occur only where crews resist boarding or attempt to regain control of ships. In the case of a successful hijack, Somali pirates treat crews which offered resistance considerably more harshly than those capitulating immediately – “pour encourager les autres”.³⁶

Merchant shipping is traditionally not armed, nor are sailors generally trained to handle weapons. Captains would have to declare (and sometimes unload) weapons caches at every port of call (which can severely delay departures) and would have to comply with the gun laws of the flag state at all times. In addition, Somali and Yemeni traders and fishermen carry out legitimate business in the Gulf of Aden. Shooting at a “suspicious” skiff could invite lengthy litigation requiring crews to prove they acted in self-defence. A small minority of ship-owners have begun to employ armed security guards. However, this is only an option if the cargo is not flammable. Most concerned ship-owners prefer to invest in passive safety features (such as barbed wire, recordings of barking dogs,³⁷ bright lights, dummies dressed as armed guards or releasing slippery substances on the hull) to hold off pirates for a few minutes while awaiting naval rescue or to divert pirates to less well protected ships.

³¹ Interview with Stephen Askins

³² With 20 successful attacks in the Gulf of Aden in 2009 compared to 17,000 ships transiting through the Suez Canal (a good proxy for international shipping traffic in the GoA though it does not include regional trade), the probability of being successfully attacked is under 0.12%.

³³ EUNAVFOR, *Three vessels saved from pirating thanks to Best Management Practices*, Oct. 14, 2010, at <http://www.eunavfor.eu/2010/10/three-vessels-saved-from-pirating-thanks-to-best-management-practices/>

³⁴ Interview with risk consultant.

³⁵ Crews from India / China / Thailand are often assaulted, especially if they were fishing illegally.

³⁶ Crews are aware of the risk of defending the ship and many captains choose to de-escalate the situation by submitting quickly once passive defences have failed. Interview with tanker captain / marine superintendent.

³⁷ Though highly effective as a defence, dogs would have to be killed before entering the next harbour because of quarantine regulations. Interview with captain.

The latest development in private counter-piracy measures are so-called “panic rooms” or “citadels”. These provide a safe place for the crew to await rescue by international naval forces, who are thereby reassured that everyone visible on deck is in fact a pirate. A number of rescues of this type have successfully taken place in recent months. However, using a panic room is only an option if the naval forces are in the direct vicinity of the ship, as they are not impossible to find and enter.³⁸

Ship-owners and captains therefore have a variety of options regarding whether and how to defend their ships. Ship owners responses range from those choosing to take their chances, entering the transit corridor at the wrong time and at the wrong speed and thereby not being under naval protection at all, to those who have a full and effective range of defensive measures in place. In early 2010 naval commanders estimated that about 20% of the ships transiting the GoA did not use the transit corridor as recommended.³⁹ Naval commanders also point out that none of the ships using the corridor correctly were successfully attacked.⁴⁰

Over time there has been an increasing realisation that the private sector has to work with the naval forces to make the naval counter-piracy measures effective. Because of having to cover such a large area with limited equipment the naval forces rely on the private sector to delay boarding by 20 minutes – the time it takes for help to arrive. The proportion of captains ignoring advice on best practice may be decreasing. We will therefore test whether the naval measures become more effective over time, or whether the improvements in counter-piracy practices are offset by similar innovation among pirates.

3. Counter-terrorism, Economics of Criminal Behaviour and Research Hypotheses

3.1. Effectiveness of Counter-terrorism Policies

There is a growing empirical literature on the effectiveness of counter-terrorism policies, most of which is sceptical about the ability of the security forces to deter terrorists from

³⁸ See Johannes Ritter, *Schutz vor Piraterie: Die Piraten rüsten auf*, FAZ.net, Oct. 9, 2010, at <http://www.faz.net/s/RubFC06D389EE76479E9E76425072B196C3/Doc~ED288F086F18A42A5A5BE1558A3AC870C~ATpl~Ecommon~Scontent.html>; and Ince & Co, *Piracy - US Presidential Order on payment of ransoms and recent developments*, Articlesbase.com, Sep. 14, 2010, at <http://www.articlesbase.com/law-articles/piracy-us-presidential-order-on-payment-of-ransoms-and-recent-developments-3264291.html>

³⁹ This was independently confirmed by a security specialist using data from satellite images (information obtained under Chatham house rules).

⁴⁰ Interview with Captain Farrington.

attacking.⁴¹ Enders and Sandler (1993) were the first to point out that the main effect of counter-terrorism measures is to raise the marginal cost of carrying out specific types of attacks (or attacks in specific locations), leading to a substitution effect. They show that when investment in anti-terrorism measures makes certain activities less likely to succeed (e.g. sky-jacking), terrorist groups respond by undertaking other types of activities instead (e.g. kidnapping).⁴²

Recent contributions to this literature show that if anything only well targeted violence can reduce the number of subsequent terrorist attacks and even then probably only in the short term. Jaeger and Pasermann (2008) analysed high frequency time series data of the Israel / Palestine conflict, showing that Israeli security force interventions did not systematically reduce subsequent Palestinian attacks. Benmelech *et al* (2010) show that only highly targeted operations (in this case the demolition of the houses of suicide terrorists and terror operatives) have the desired effect of reducing subsequent attacks. However, this effect is geographically limited and short-lived. Gil-Alana and Barros (2010) show that ETA was able to recover from the arrests of its leaders and other retaliatory security policies: only political initiatives ultimately reduced violence. Fielding and Shortland (2010) urge for even greater caution in the use of violence against terror: their results suggest that in Egypt hard crackdowns on dissidents may have set off cycles of violence – i.e. terrorist activity may have increased rather than reduced in the aftermath of large-scale arrests.

Although conceived as an anti-terror campaign, the international naval mission in the Gulf of Aden has (therefore?) not risked escalating violence in the region by taking a heavy-handed approach. As discussed above, the mission is characterised by extremely cautious targeting of highly suspicious crews in the Gulf of Aden and the treatment of suspects has (mostly) complied with international human rights legislation. In the subsequent analysis we therefore model the naval mission as a policing operation rather than a classic counter-terrorism initiative.

⁴¹ See Enders and Sandler (2006) for a relatively recent review

⁴² Also see Enders and Sandler 2004

3.2. Deterrent Effect of Criminal Prosecutions

In the economics of law the criminal is modelled as a rational individual, who makes a choice of whether or not to commit a crime based on the expected pay-offs from criminal activity. This is particularly relevant to crimes that are undertaken with deliberate intent and are carefully planned and executed: the aim of criminal law is to deter crime in the first place, rather than compensating the victim.

The basic model is laid out in Cooter and Ulen (2008). The rational criminal chooses to undertake a crime and its pay-off y is a function of the seriousness of the crime. The criminal is caught with a probability p , which is also a function of the severity of the crime, as is the punishment $f(x)$. The aim of the rational criminal is to maximise the following function:

$$\text{Max: } y(x) - p(x) f(x) \quad (1)$$

Criminal activity is undertaken as long as the marginal benefits of committing a crime exceed its marginal costs. The marginal cost is a function of the probability of being caught and the severity of the expected punishment.

$$y' = p'f + pf' \quad (2)$$

The marginal benefit of crime depends on the rewards from crime and the opportunity cost of committing crime, where criminals are choosing between employment in the legal sector and the illegal sector.⁴³ The supply of criminals should therefore also depend on the expected pay-offs from crime, as well as the availability and profitability of alternative forms of employment.

Crime is expected to decrease as the probability of being caught increases and as the threatened punishment becomes more severe. This is often referred to as the “deterrent effect” of criminal law and empirical evidence shows that criminals are sensitive to both an increase in detection rates and to the severity of the punishment (see e.g. Levitt (2004) on crime rates in the US).

For effective deterrence the following criteria must be satisfied (Robinson and Daley, 2003):

⁴³ A farmer can either grow opium / coca or a food crop and a pirate cannot simultaneously run or be employed in an on-shore business, tend his fields or herds or find employment in a local warlord’s militia.

- 1) Offenders must be aware of the rules.
- 2) The cost of violations must be perceived to be higher than the perceived benefit.
- 3) Criminals must be willing to change their behaviour in the light of this knowledge.

We argue that conditions 1) and 3) are fulfilled in Somalia. Firstly, Somali pirates seem to be communicating with each other by mobile and satellite phones.⁴⁴ They also have a clear understanding of the rules of the game. When arrested they are aware of whether the circumstances of their arrest merit “catch and release” or detention. They are also aware of the unattractive conditions in Kenyan prisons.⁴⁵

Secondly, Somali piracy is no longer an opportunistic crime, but crews either set off with fishing equipment or the weapons and fast motors required for piracy.⁴⁶ We can therefore assume that those engaged in piracy have made a conscious decision to do so. There is also clear evidence that pirates engage in risk management. Somali piracy is exceptionally non-violent, indicating that Somali pirates are not suicidal maniacs or extreme risk seekers. There appears to be an unwritten rule that weaponry is used to establish who has the superior firepower rather than to contest possession. As discussed before, crews tend to submit to pirates once passive defence measures have failed, minimising the chance of injury on both sides. Similarly, pirates abandon attacks when they discover an armed defence team on board or when a naval patrol arrives in the vicinity. In the case of MV Lugela in September 2010 pirates were unable to find the crew in the “safe room” and abandoned the ship before the arrival of the naval team coming to liberate the ship.⁴⁷ Also, activities which present a high risk of failure are generally avoided. Ships clearly under naval escort are not touched and the few examples of naval supply ships being attacked appear to have been genuine mistakes. It should be noted in this context that the probability of a pirate being killed are extremely low. According to consolidated statistics just 54 pirates lost their lives in encounters with the

⁴⁴ Matching up the numbers on confiscated phones from different arrests show that pirates from different crews are in contact with each other. Interviews with naval intelligence officers.

⁴⁵ For example when pirates are aware that there is not enough evidence to convict them, they do not believe that they will be taken to Kenya if this is threatened. Interviews with naval officers.

⁴⁶ Arrested pirates who have dumped their weapons never have more than a few fishing hooks on board, evidently used for catching fish for personal consumption. Those pretending to be traders do not have goods on board. Interviews with naval officers.

⁴⁷ AFP, *Same teams, new tricks as Somali piracy season kicks off*, MSN News, Sep. 28, 2010, at <http://news.ph.msn.com/business/article.aspx?cp-documentid=4363679>

military since April 2008 (this includes the 10 missing pirates “released” by the Russian navy after the freeing of the *Moscow University*⁴⁸).⁴⁹

In the analysis below, we test the response of pirates to the changes in navigational risks associated with weather patterns. We see that pirates reduce activity when the risk of being capsized in high waves is high. In the case of monsoonal winds all three conditions for effective deterrence are thereby fulfilled. Thus we can be reasonably confident that pirate behaviour is informed by cost-benefit analyses.

However, the issue of deterrence is more complex than the simple model above suggests: criminals not only have the choice between committing and not committing a crime, but they can also substitute between criminal activities, based on differences in detection probabilities or severity of punishment (Robinson and Daley, 2003, Enders and Sandler, 1993). We therefore need to explore evidence of deterrence and of substitution as a response to changes in the operating environment for criminals. In the context of Somali piracy the obvious substitution would be from the area with a high risk of detection (the Gulf of Aden) to the open seas where naval forces are severely stretched.

If pirates do not respond to a change in the probability of detection and punishment due to the naval measures by reducing activities or changing tactics, we interpret this as evidence that either the threatened punishment is not an effective deterrent or the detection probability is still too low to change behaviour.

3.3. Changes in the “Marginal Benefits” of Piracy

3.3.1. Rewards and Resources

There is no consensus on how well paid pirates are. Some sources claim that members of successful pirate crews are paid a fixed fee in the region of US\$10 -15,000 per successful hijack.⁵⁰ An additional premium of US\$5-10,000 is paid to the pirate who gets on board first

⁴⁸ David Cairns, *Russian navy ‘sent Somali pirates to their death’*, The First Post, May 12, 2010, at www.thefirstpost.co.uk/63244,news-comment,news-politics,russian-navy-sent-somali-pirates-to-their-death-from-the-moscow-university

⁴⁹ Bruxelles 2, *Bilan des opérations anti-piraterie*, at <http://www.bruxelles2.eu/bilan-des-operations-anti-piraterie-eunavfor-atalanta-ctf-otan-russie-exclusif>

⁵⁰ Gilpin (2009)

to incentivise pirates to take on this most dangerous aspect of the hijack. Others claim that the pirate team gets a proportion of the final ransom to split amongst them.⁵¹ If so, piracy may have become ever more attractive as ransoms have been increasing over time.⁵²

Either way, it is clear that the gains from successful piracy far exceed potential earnings on land. Interviews with Somalis who are often quite open about their line of business certainly suggest that piracy is the most attractive business in town.⁵³ Comparing the payment of a successful pirate to Somalia's GDP per capita of 277US\$, this is no surprise.⁵⁴ It is therefore possible that the supply of potential pirates is not the factor that constrains piracy. Instead, the constraint may be the (in the Somali context considerable) fixed cost of mounting a pirate expedition.

Poor young men trained in using firearms are plentiful in Somalia. GPS equipment and mobile telephony are easily available and not terribly expensive. However, pirates will fail in their objective if they cannot catch up with their prey. This requires each pirate skiff to be powered by two 100 bhp outboard motors, each costing in the region of US\$6-10,000. For a team of at least two (but up to four) skiffs this investment is not easily raised in Somalia – despite reports of stock markets allowing villagers to buy shares in pirate missions.⁵⁵ We will therefore test the hypothesis that successful hijackings in the past provide the funds for equipping new pirate crews.⁵⁶

3.3.2. The Business Environment

We also look at the (combined) effect of two further changes in the business environment of Somali pirates, which unfortunately occurred around the same time making it impossible to disentangle their effects statistically. Firstly, in April 2008 the Al Shabab militia invaded the Southern part of Puntland and ousted pirates from their stronghold of Gharaardeere on 25

⁵¹ Mary Harper, *Chasing the Somali piracy money trail*, BBC News, May 24, 2009, at <http://news.bbc.co.uk/2/hi/africa/8061535.stm>

⁵² Unfortunately ransom amounts in a large number of cases are not publicly disclosed, meaning we cannot test this hypothesis empirically.

⁵³ BBC News, *'It's a pirate's life for me'*, April 22, 2009, at <http://news.bbc.co.uk/1/hi/8010061.stm>

⁵⁴ CIA World factbook: US\$ GDP estimate 2009 / population (estimate). At PPP *per capita* GDP is estimated to be US\$600.

⁵⁵ Mohamed Ahmed, *Somali sea gangs lure investors at pirate lair*, Reuters.com, Dec. 1, 2009, at [http://www.reuters.com/article/idUSTRE5B01Z920091201?feedType=RSS&feedName=businessNews&utm_source=feedburner&utm_medium=feed&utm_campaign=Feed%253A+reuters%252FbusinessNews+\(News+%252F+US+%252F+Business+News\)](http://www.reuters.com/article/idUSTRE5B01Z920091201?feedType=RSS&feedName=businessNews&utm_source=feedburner&utm_medium=feed&utm_campaign=Feed%253A+reuters%252FbusinessNews+(News+%252F+US+%252F+Business+News))

⁵⁶ It is impossible to get reliable estimates of remittances by the Somali Diaspora through the notoriously opaque *hawala* remittance system and explore its potential role in the funding of pirate activity.

April 2008.⁵⁷ While it appears that pirates were able to take the boats which were in the process of being ransomed further North the instability could negatively affect the number of pirate attacks thereafter. Pirates often have a background in local militias and may be recalled from the sea to participate in armed conflict on land. Also, armed conflict increases the chances of pirate booty being contested on land, making it less attractive to undertake piracy.

Secondly, on 13 April 2008 a UN sanctions list and a US presidential order were published, banning payments to a list of individuals threatening to “undermine stability and security in Somalia”, including Al Shabab members and two known “pirate kings”. The order threatens prison sentences and heavy fines to those who knowingly pay ransoms which may end up in the pockets of these individuals. As it is completely opaque who receives money from piracy, the insurance industry needs to tread very carefully, lengthening and potentially scuppering ransom negotiations.⁵⁸ Indeed ransom negotiations in 2010 have been dragging on much longer than was previously the case.⁵⁹ It is therefore possible that pirates may be reacting to the policy measure by reducing attacks, as they are tied up in guarding their previous prey for longer.

3.4. Changes in the “Marginal Costs” of Piracy

The next issue we want to address is the question of pirates’ reaction to the risks of carrying out piracy. There are three main risks. Firstly, there is the considerable risk of navigating a small skiff in the high seas with limited food, fuel and equipment.⁶⁰ Secondly, the risk of being chased off a target and having to jettison arms and technological equipment to qualify for “catch and release”. Thirdly, there is the risk of being arrested and tried or even killed.

We therefore firstly test whether pirates respond to changes in the risks associated with navigation. There are two monsoon seasons in Somalia, the Northeast monsoon from

⁵⁷ Mustafa Haji Abdinur, *Somali Islamists vow to end piracy, pirates flee with ships*, AFP, May 2, 2010, at <http://www.google.com/hostednews/afp/article/ALeqM5j0OwOfeiTIZFFb3Vb2e8dxal5qHA>

⁵⁸ Ince & Co, *Piracy - US Presidential Order on payment of ransoms and recent developments*, Articlesbase.com, Sep. 14, 2010, at <http://www.articlesbase.com/law-articles/piracy-us-presidential-order-on-payment-of-ransoms-and-recent-developments-3264291.html>

⁵⁹ Interview with Steven Askins.

⁶⁰ Especially in the Indian Ocean pirates often appear to be on “one-way” missions. If they cannot hijack a ship for the way back, they simply perish. Interviews with naval officers.

December to March and the Southwest monsoon from June to August.⁶¹ During these periods, high winds interact with the current in the Gulf of Aden and the coastal current of Somalia's Eastern coastline to create high waves of a short wavelength, which can be extremely dangerous for small skiffs. We test whether pirates display an aversion to committing acts of piracy in bad weather.

Secondly we look at the effect of changes in the probability of being chased off during a piracy attempt. As the transit corridors / patrol areas are designed to aid navies in catching pirates, we create dummy variables for these naval initiatives. We also test whether we can discern an increase in the effectiveness of the IRTC over time as the private sector improved its defence. Finally, we use a count of the number of disrupted attempts in the previous 30 days to capture changes in the effectiveness of the combined private and naval defence capabilities.

There are two possible reasons why a transit corridor may not work as expected. Firstly, the deterrent effect of losing weapons and phones and the remote threat of a successful conviction may simply not be great enough to make pirates less likely to attack under the noses of the world's naval forces. Secondly, the transit corridor makes it easier for pirates to choose a prey. Although ships travel fairly predictable routes to minimise distance and conserve fuel, shipping traffic before the implementation of the transit corridor was not nearly as concentrated as it is now. Piracy therefore involved lengthy periods of waiting until a suitable target appeared in the direct vicinity of the pirates. A transit corridor takes the guesswork out of finding a ship.⁶² Used in combination with the AIS system, pirates may even be able to identify preferred targets in advance.⁶³

Arrest, detention and trial are most likely to be associated with successful rescues, because of the difficulties of being convicted of attempted piracy as discussed above. Statistics compiled from the various naval forces operating in the region suggest that 506 pirates have been charged and 254 of these have been sentenced. Deaths are similarly mostly associated with

⁶¹ Naval Research Laboratory, *Arabian Sea/Gulf of Aden Winds - SW Monsoon Introduction Tutorial*, last updated Dec 9, 2002, at http://www.nrlmry.navy.mil/sat_training/world_wind_regimes/GulfOfAden/SW_Monsoon/index.html

⁶² Percy and Shortland (2010)

⁶³ The fact that the Maersk Alabama was attacked again a few months after being ransomed suggests that this may be going on: Mike Pflanz, *Somali pirates attack US-flagged Maersk Alabama a second time*, Telegraph.co.uk, Nov. 18, 2009, at <http://www.telegraph.co.uk/news/worldnews/piracy/6598482/Somali-pirates-attack-US-flagged-Maersk-Alabama-a-second-time.html>

rescue missions, because pirates tend not to resist arrests associated with disrupted attacks and therefore do not get into gun battles with the international naval forces. We therefore test whether an increase in rescue missions in the preceding period changes the willingness of pirates to attack.

4. Econometric Approach and Data

4.1. Model of Piracy Attacks

Summarising the considerations and hypotheses outlined above we will test the following logit models of the probability of pirates mounting an attack on a given day between January 2008 and June 2010. The dependent variable is whether or not an attack took place (in a particular location) on a particular day or not.⁶⁴ We define a successful attack as one in which the pirates took control of the ship and sailed it to Somalia to begin ransom negotiations.

$$\Pi_{\text{attack}} = \alpha + \beta_1 (\text{weather risk and opportunity}) + \beta_2 (\text{disruption risk}) + \beta_3 (\text{arrest risk}) + \gamma (\text{uncertainty}) + \delta (\text{rewards and resources}) + \varepsilon_t \quad (3)$$

$$\Pi_{\text{success}} = \alpha + \beta_1 (\text{weather}) + \beta_2 (\text{naval measures}) + \delta (\text{resources}) + \varepsilon_t \quad (4)$$

$$\Pi_{\text{success}} = \alpha + \beta_1 (\text{weather}) + \beta_2 (\text{naval measures}) + \varepsilon_t \quad \text{if attack occurs} \quad (5)$$

We use the total of all attacks originating from Somalia as well as splitting the sample into attacks in the Gulf of Aden and those in the Somali basin. This way we can test whether the naval measures in the Gulf of Aden are effective overall, or whether their effectiveness is geographically limited.

4.2. Data

We use daily information on piracy activity off the Somali coast from January 2008 to June 2010 in order to test our hypotheses empirically. Data on incidents of piracy are drawn from the reports from the International Maritime Bureau (annual reports 2008 and 2009 and 2nd quarter 2010). The IMB provides narratives on all incidents of piracy reported by captains

⁶⁴ Very rarely more than one attack takes place on a specific day. Sometimes the attacks are clearly linked - see discussion of “swarming” below. The results are robust to estimating an ordered logit instead.

and ship-owners, which allows us to distinguish between successful raids and unsuccessful attempts.

4.2.1. Descriptive Statistics

Diagram 3 describes the evolution of piracy off the Somali coast since January 2008. Distinguishing between attacks in the Gulf of Aden and attacks in the Somali Basin, we see a clear seasonal pattern with relatively low levels of piracy during the monsoon months. By far most of the incidents of piracy in 2008 were reported from the Gulf of Aden, where 90 out of 114 (reported) attacks took place. A total of 41 of these attempts were successful, with no obvious regional differences in the effectiveness of attacks.

With the implementation of the IRTC in early 2009, the picture gradually changes. While the number of piracy attacks in the Gulf of Aden even peaks in the first half of 2009, the subsequent decrease in attacks after the Southwest monsoon period suggests that the anti-piracy naval forces in the Gulf of Aden may have become more effective over time. In particular, the share of successful attacks in the Gulf dropped significantly from 31 per cent before February 2009 to 16 per cent thereafter.

At the same time, we observe a substantial increase in the number of piracy attacks in the Somalia Basin, with almost 45 per cent of all incidents between July 2009 and June 2010 reported from this area (as compared to a share of only 21 per cent in 2008). Further, the probability of an attack being successful in this region seems to remain remarkably stable over time, with around 40 per cent of all attempts in the Somalia Basin resulting in a successful hijacking. The subsequent analyses intend to reveal the underlying causes of these trends.

4.2.2. Explanatory Variables

We firstly test a series of weather variables. We use dummy variables for the Northeast and Southwest monsoon months of December – March and June-August. However, these are a rough estimate for the actual monsoon period we also interacted a measure of the maximum wave-height observed in the Gulf of Aden and off the coast of Somalia with the combined monsoon dummies, to capture the rough waves associated with the monsoons more

accurately.⁶⁵ We also include a dummy of the month after each monsoon season to capture potentially increased pirate activity after the monsoon season ends.⁶⁶ Finally, we include a full moon dummy for 5 days centered on each full moon, as well as generating a variable for clear full moons from an interaction of the full moon dummy with rainfall in Hargeisa thereby eliminating full moons with cloud cover.⁶⁷ Full moon nights are apparently particularly conducive for successful piracy operations.⁶⁸

For capture increased risks of disruption we firstly use dummy variables corresponding to the Maritime Security Patrol Area (MSPA) from 23 August 2008 to 31 January 2009 and the IRTC from 1 February 2009. To check whether the IRTC became more successful over time as the private sector improved its performance regarding taking active anti-piracy measures, we split the transit corridor into its 2009 and 2010 effects. We also experimented with a count variable starting from the implementation of the transit corridor and the natural log of this count variable. Finally, we use a count of the number of successfully disrupted pirate attacks in the previous 3, 5 and 30 days as a proxy for any increases in the effectiveness of the international naval forces in chasing pirates off their prey.

To capture increases in the perceived risk of arrest and trial (which are associated with successful rescues) we created a count of the number of successful rescues in the previous 30 days.

We capture increased uncertainty arising from the presence of Al Shabab in Puntland and the UN and US ransom initiative with a dummy variable taking the value 1 from 13 April 2010. News from Somalia is not reliable or frequent enough to come up with a more precise measure of the occupation of Puntland territory by Al Shabab unfortunately.

We capture variations in the attractiveness and scope of Somali piracy by looking both at a count successful piracy in the previous six months and the number of ships which were

⁶⁵ While the variable is highly significant, the ICOADS wave data are not available for 2010, meaning we lose 6 months of observations in these regressions.

⁶⁶ Mike Pflanz, *Somali pirate attacks 'set to increase' as monsoon eases*, Telegraph.co.uk, July 27, 2009, at <http://www.telegraph.co.uk/news/worldnews/africaandindianocean/somalia/5918908/Somali-pirate-attacks-set-to-increase-as-monsoon-eases.html>

⁶⁷ Source: Somalia Water and Land Information Management (SWALIM), at www.faoswalim.org/ unfortunately there are no data on coastal cloud cover.

⁶⁸ Eoin O'Kinneide, *Pirate moon party*, TradeWinds.no, Sep. 30, 2009, at <http://www.tradewinds.no/andalso/article545237.ece> This is most likely to be relevant for raids in the Gulf of Aden.

successfully ransomed in the previous three months, to capture the influx of new resources to equip new pirate crews. All explanatory variables are summarised in Table 1.

5. Results

The results clearly show that pirates are sensitive to and avoid the risks arising from difficult conditions for navigating skiffs in rough seas. However, the naval counter-piracy measures have not deterred Somali pirates overall, but have led to strategic substitution between targets.

5.1. Incidents of Piracy and Pirate Successes in the Gulf of Aden

All models of the incidents of piracy in Table 2 suggest that pirates are risk averse, with pirates being considerably less active during both monsoon seasons. Similarly, they exploit conditions which give them an additional small advantage – such as full moon nights. However, the naval counter-piracy measures have not had the desired deterrent effect. On the contrary, Model (1) suggests that the incidence of piracy in the Gulf of Aden has increased during the naval counter-piracy measures. Particularly the implementation of the Marine Patrol Area appears to be associated with a substantial rise in piracy. The much improved IRTC is still associated with a considerable increase in pirate attacks, though by 2010 the association appears to be less pronounced.

However, model (2) shows that the positive association between the transit corridors and incidence of piracy disappears once we control for additional resources becoming available for piracy as pirates who have been successful in the past reinvest their profits in the piracy business. The naval counter-piracy efforts have therefore not been counter-productive, but they have failed to deter (an increasing number of) pirate crews from trying their luck in the Gulf of Aden. Model 3 therefore excludes them from the list of explanatory variables

Model (4) suggests a slightly different interpretation of the effects of the transit corridor. In this model there is the same positive effect from resources from past piracy and a similar, positive effect from the number of pirate attacks disrupted in the previous 30 days. This suggests that pirates are, if anything, more likely to attack again after being chased off a

target previously. There is no statistical effect from the count of rescues in the previous 30 days (omitted from the reported results), indicating that pirates do not fear increased arrest probabilities. This result seriously calls into question the effectiveness of naval measures as a deterrent.

This does not mean that naval measures are ineffective altogether, however. Models (5) and (6) explore the effectiveness of the transit corridor in terms of changing the likelihood that pirate attacks will be successful. Although no effect can be discerned for the MSPA, the transit corridor enters the model with a highly significant negative coefficient: the number of successful pirate attacks in the Gulf of Aden has been reduced considerably and the probability that an attack will be successful is similarly reduced. Interestingly, there is no discernable effect from the improvements in the private sector's increasing adoption of "best practice" in 2010. Any positive effects seem to have been outweighed by similar innovations and improvements in the business practices of pirates.

Firstly, pirates seem to have changed their tactics regarding selecting prey. Initially pirates' preferred targets were "beautiful, well maintained ships" as an indication of well-endowed ship owners able to afford high ransoms.⁶⁹ Recently, it is the badly prepared, slow and inattentive, which have become the targets of pirates (Murphy, 2010). Secondly, Coutroubis and Kiourksoglou (2010) show that Somali pirates are selective in their target choice, avoiding ships carrying flags associated with the countries present in the international naval forces in the region.⁷⁰ Thirdly, pirates seem to be attacking in larger groups than previously with swarms of pirates flooding an area, so that the naval forces are stretched and cannot engage all of them.⁷¹

5.2. Total Incidents of Somali Piracy

Table 3 summarises the results of the overall incidents of Somali piracy. Again all models confirm that pirates avoid high risk activity during the monsoon season. Overall, the transit corridor is associated with an increase in the number of incidents of piracy, even when we

⁶⁹ Interviews with naval officers and risk consultant.

⁷⁰ This includes not just the national flags, but also flags of convenience used by Western ship-owners to circumvent domestic taxes and restrictions.

⁷¹ Nick Childs, *Navies struggle with 'swarming' pirates*, BBC.co.uk, Apr. 1, 2010, at <http://news.bbc.co.uk/1/hi/8598726.stm>

control for the increasing resources available for piracy and the number of recently disrupted attacks which cause pirates to simply try again.

Model (8) suggests that the positive and borderline significant positive effect of the transit corridor in model (7) is driven by a significantly positive effect in 2009, which has disappeared by 2010. This could of course arise because of the combined effect of the new rules regarding ransom payments and the upheaval in Galmudug province from April 2010. Once we control for this, we do get a negative effect, though this is not statistically significant (model (9)).

When it comes to successful attacks, overall we do not see an overall reduction in the number of successful pirate attacks due to the operation of the IRTC. If anything, the increase in disrupted attacks due to the operation of the corridor raises the probability of a subsequent success, perhaps indicating that pirates are learning from past mistakes (models (10) and (11)). If anything, the abandoned maritime patrol area was associated with an increase in successful attacks (model (12)) – perhaps because it combined the advantages for pirates of highly concentrated shipping with a low probability of encountering naval patrols.⁷² The probability of successful attacks is significantly reduced in rough winds and increased in the post-monsoon period with its increased pirate activity.

5.3. Incidents of Piracy in the open Seas

The previous results regarding the aversion of pirates to high waves are confirmed, except that it is mainly the South-West monsoon which interacts with the coastal current to create the conditions which deter pirates. The importance of past resources in feeding into subsequent attacks is also confirmed.⁷³ Given that the overall number of incidents and successful incidents has not decreased, despite the reduced number of attacks and successes in the Gulf of Aden, it comes as no surprise that the models looking at piracy in the Somali Basin show a clear substitution effect. Both successes and attacks have substantially risen in

⁷² Naval commanders also surmised that the proximity to the Yemeni coast allowed look-outs to be stationed and that the “dog-leg” in the corridor slowed shipping down unnecessarily. Interview with Captain Farrington.

⁷³ There is no additional explanatory power in splitting resources into those derived from successes in the Gulf of Aden and Somalia, indicating that it makes sense to model Somali piracy as a single business, in which pirates choose their attack location.

response to the implementation of the transit corridor – even when we control for the increase in overall piracy resources due to ransom payments. This result is clearly in line with the classic result of Enders and Sandler (1993).

Given the much greater navigational difficulties and risks associated with piracy in the open seas, we conjecture that this substitution has occurred in response to the increased risk of detention and trial. We may be observing that pirates avoid the Gulf of Aden once there is sufficient evidence for a successful conviction e.g. from forensic examination of previously hijacked boats.⁷⁴ This interpretation is also in line with information gleaned from interviews with naval officers and commanders who claim that the “quality of pirates” in the Gulf of Aden has declined.⁷⁵ This would leave the least experienced and least capable pirates operating in the Gulf of Aden, where finding prey is easiest and the probability of disruption is highest. Given that their first arrest for attempted piracy is unlikely to result in a prosecution, the risk of disruption is irrelevant to these pirates. The observed reduction in successful attacks in the Gulf of Aden could therefore be due to a combination of the decline in the quality of pirates and the success of the navies in preventing attempted attacks.

5.4. The US Ransom Initiative

The dummy variable indicating the two challenges to the piracy business stemming from the US ban on ransoms to specific named pirates and the incursion of Al-Shabab militias into the “pirate town” of Gharardeere did not have any statistically significant effects on subsequent pirate activity. While it is possible that the effects will appear in the longer run, it is also possible that pirates can simply move their operations further North and carry on negotiating ransoms as usual in the confidence that they will be paid.

The reason for the latter is that the unilateral initiative by the US has been resisted by some of the key players in the insurance business, specifically in the City of London. In the complicated world of global shipping, most ships represent a wide mixture of international interests. For example, the flag state of the ship might be a “flag of convenience”. The owner, the charterer, the crew and the cargo may all belong to different nations. Their respective

⁷⁴ Pirates arrested in the Gulf of Aden have also been successfully linked to previous hijackings by examining their GPS equipment, proving that the equipment was used at the time and position of a previous incident. Interview with naval intelligence officer.

⁷⁵ Interview with Captain Farrington and others.

insurers may be incorporated in different nations yet again. The final ransom money is generally a small fraction of the total value of the ship and it is in everybody's interest to pay it to avoid a total loss. The ransom is therefore paid and the insurers apportion the individual contributions amongst themselves.⁷⁶ The ability or inability of an American insurer to contribute to the final settlement (which may occur many months after the ransom is paid) is therefore irrelevant to pirates - at least for the time being.

5.5. Are Somali Pirates Ideologically Close to Violent Islamist Movements?

The final issue we want to address is the question of the link between pirates and violent Islamist movements in Somalia. The first point to make in this respect is that officially the Islamist movements have at all times been highly opposed to piracy considering it in breach of *Sharia* law.⁷⁷ This has been backed up by public actions against pirates whenever Islamists gained control of pirate areas in Puntland – which for example resulted in the complete cessation of piracy from June to November 2006 when the UIC was in control of large parts of Puntland and Southern Somalia.⁷⁸ However, some argue persuasively that the main reason for the clashes between pirates and Islamists are economic, as pirates disrupt trade, which is “taxed” by the Islamists.⁷⁹ Nonetheless, accusations of (financial) links between pirates and Islamist militias abound (Stephenson, 2010). Islamists are reported to tap into the cash flows generated by piracy and were extremely interested in the cargo of the MV Faina.⁸⁰

However, links between pirates and Islamists have not been proven. Given the absence of any evidence of financial and operational links between Islamists and pirates, we added two extra dummy variables into our regressions for Ramadan and for all Islamic holidays. Given the

⁷⁶ Interview with Stephen Askins.

⁷⁷ BBC News, *Somali Islamist insurgents seize pirate haven*, May 2, 2010, at <http://news.bbc.co.uk/1/hi/world/africa/8657060.stm>

⁷⁸ See Colin Freeman, *Pirates fear the lash of sharia law*, Telegraph.co.uk, Oct 15, 2006, at <http://www.telegraph.co.uk/news/worldnews/1531507/Pirates-fear-the-lash-of-sharia-law.html>; and Spiegel Online, *Pirates Sunk by Somali Islamists*, Aug. 23, 2006, at <http://www.spiegel.de/international/0,1518,433233,00.html>

⁷⁹ Nick Wadhams, *Somali Pirates vs. Islamists: A Dispute Over Business*, Time.com, May 7, 2010, at <http://www.time.com/time/printout/0.8816.1987855.00.html>

⁸⁰ See Dana Hughes, *Somalia's Pirates and Islamists Clash and Cooperate*, abcnews.go.com, April 28, 2010, at <http://abcnews.go.com/International/somalia-pirates-islamic-fighters-works-times/story?id=10500912&page=1>; Jeffrey Gettleman, *The Pirates Are Winning!*, The New York Review of Books, Oct. 14, 2010, at <http://www.nybooks.com/articles/archives/2010/oct/14/pirates-are-winning/?pagination=false>; and Rob Crilly, *Islamists plunder weapons from hijacked ship in Somalia*, The Times, Sep. 29, 2008, at <http://www.timesonline.co.uk/tol/news/world/africa/article4842684.ece>

Islamists' fundamental objection to piracy under *sharia* law one would expect that if there was an ideological link between pirates and Islamist, they would choose to avoid piracy activity which is explicitly designated as sinful at this time.⁸¹

If anything pirate activity appears to be higher during Ramadan and other holy days in the Islamic calendar than at other times of the year. Partially this might be due to the fact that Ramadan in 2008 and 2009 occurred towards the end of the monsoon season. Alternative explanations could be the need to fund additional expenditure during the feast days or that pirates expect (Muslim) crews to be less alert during Ramadan, making success more likely.⁸² We included the Postmonsoon and Ramadan dummies as alternative explanatory variables and have reported the dummy which had the best fit. Overall we do not find any evidence of an ideological closeness of pirates with fundamentalist Islamic groups.

Piracy therefore appears to be first and foremost a business which does not operate under *sharia* principles. Nonetheless, naval intelligence telephone intercepts show that Islamists are keen to form operational and financial links with pirates. However, the pirates fiercely resist contacts with Islamist organisations, fearing that any evidence of co-operation would lead to an escalation in the intensity and the severity of counter-piracy efforts.⁸³ The threat of violence and the link of the naval measures to the “war on terror” may therefore have prevented (or at least postponed) the formation of a very undesirable alliance.

6. Discussion of Results and Conclusions

The results clearly show that Somali pirates are keenly aware of the risks involved in piracy and manage these risks through the timing of their raids, by strategic substitution between targets and geographical locations and by carefully managing their image and alliances. The naval measures have not managed to eliminate piracy in the region. Although the naval forces stress their successes in intercepting pirate attacks and the occasional rescue of hijacked ships, these measures have at best stabilised piracy at a high (if tolerable) level.

⁸¹ Pirate attacks are unlikely to be Jihadist activity, as pirates do not seem to avoid Muslim-owned and operated ships.

⁸² For example many ships are operated by Indonesian crew.

⁸³ Information obtained under Chatham House Rules.

The “catch and release” policy does not appear to deter pirates from operating in the Gulf of Aden – pirate attacks have not been reduced due to the implementation of the IRTC or the improvement of private sector defences. However, some deterrence has occurred, because we see increased activity in the open seas off the coast of Somalia. The clear substitution effect in combination with interview evidence suggests that it is the experienced pirates who are deterred from operating in the Gulf of Aden because of the prospect of trial and prison. Pirates without a “criminal record” can use the Gulf of Aden to hone their skills in the confidence that any encounters with the international naval forces are likely to be relatively benign. Once there is sufficient evidence to convict them, pirates prefer to hunt in the open seas. Here emergency assistance cannot possibly be reliably provided by the current naval contingent, which is barely adequate for the effective protection of the IRTC.

Overall one might conclude that the employment of naval forces in the Gulf of Aden has not achieved its declared aim of deterring or eliminating piracy in the region. However, this would mean ignoring that quite possibly the mission has been a highly effective counter-terrorism operation. The statistical analysis presented above suggests that pirates avoid high risk activities and are highly strategic. Ransom moneys would be an excellent way of swelling the war chest of Islamist movements and beyond this piracy could be strategically employed to directly obtain banned goods and weapons for *ihadists*. In this case presumably ways could be found of circumventing the current blanket ban on piracy by the fundamentalists’ interpretation of *sharia*. However, no alliances between pirates and violent Islamist movements have been proven. Instead, pirates are aware of the dangers of being seen to cooperate with the Islamist militias and resist contacts. Quite possibly pirates are betting on being “tolerated” by the international community as long as they are seen as a potential counterweight to Al-Shabab in Somalia. The UN and US ban on money transfers to Al-Shabab are likely to enforce such considerations.

To the extent that reducing piracy is the aim of the current naval deployment, there are three policy implications from this research. Firstly, the deterrent effect of operations in the Gulf of Aden could be strengthened. “Catch and release” is not a deterrent, whereas detention and trial of pirates appears to be something that Somali pirates would rather avoid. The international community therefore needs to resolve the issue of the legal status of attempted piracy and ensure that arrested pirates can be handed over for prosecution and get legal assistance quickly to comply with international legal and human rights standards. This might

be accomplished by establishing trial facilities in “floating courts” in the Gulf of Aden – a policy that has been mooted on several occasions. The policy is attractive as it would provide a deterrent to pirates in the Gulf of Aden without escalating violence.

Secondly, Somali piracy is constrained by a lack of resources for equipping pirate crews: when funds become available many young men come forward to try their luck in the piracy business. It is always individually rational for ship-owners to pay a ransom that is still a fraction of the total value of ship, cargo and crew. However, each ransom payment confers a negative externality on the rest of the shipping community. Given that the Somali pirates have had several hundred hostages under their control at all times, it is politically impossible to stop ransom payments altogether. Increasing the difficulty with which ransoms can be paid and continuing to drive them as low as possible, makes a valuable contribution to stemming the influx of new pirates.

Thirdly, the naval forces might consider routinely replacing the high-powered outboard motors of released pirate crews with motors suitable for fishing. Given that the 100 bhp motors are crucial to the success of pirates and are probably the largest contributor to the fixed cost of a pirate venture, such policy might enhance the effectiveness of “catch and release” in reducing pirate resources and raise its effectiveness as a deterrent.

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Diagram 1: Somali Piracy – Attempts and Successful Attacks (1/2000-6/2010)

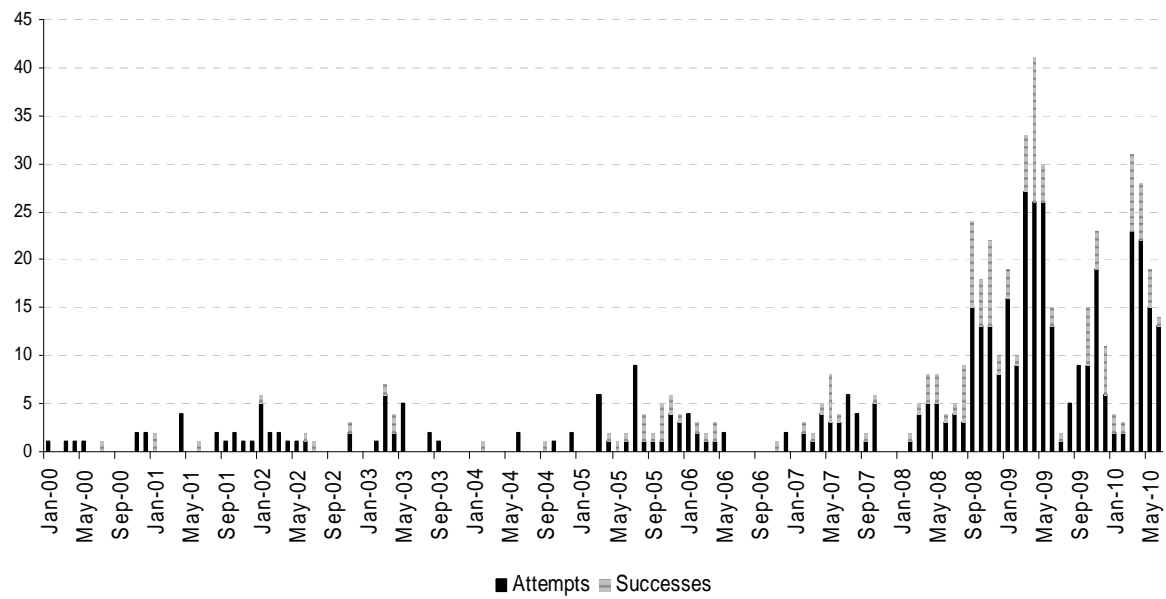


Diagram 2: The Two Transit Corridors

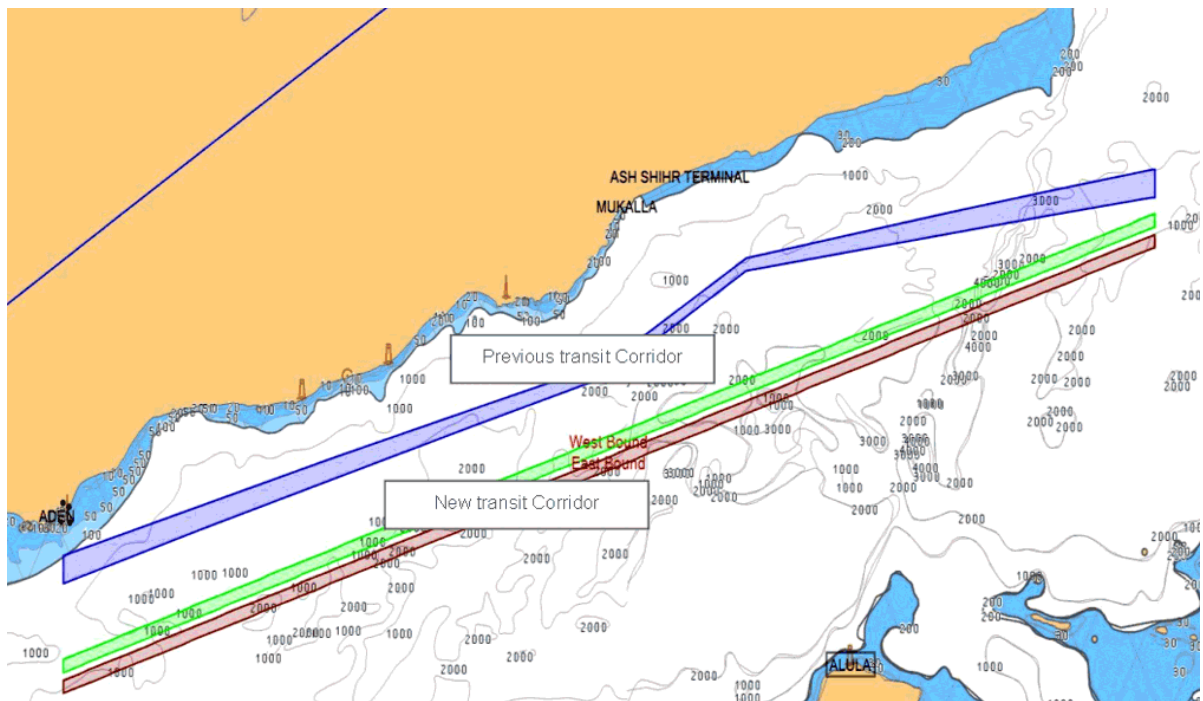


Diagram 3: Somali Piracy – Attempts and Successful Attacks by Region (1/2008-6/2010)

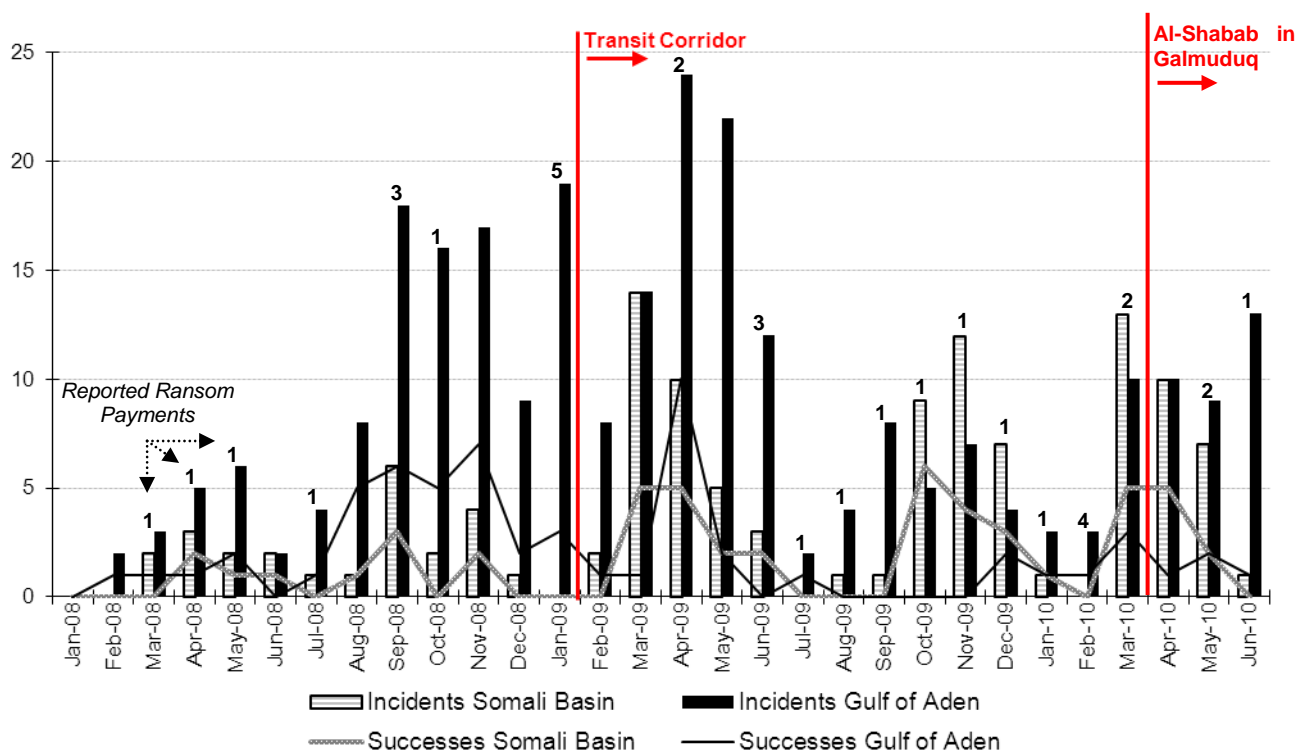


Table 1: Variable Definitions and Sources

Variable	Definition	Source		
Incident	Dummy: at least one incident of piracy reported in the region	International Piracy Reports	Maritime Bureau	
Success	Dummy: at least one incident which result in a successful hijacking and no subsequent rescue attempt is made	International Piracy Reports	Maritime Bureau	
Ransom payment	Number of reported ransom payments in the past 90/180 days	International own calculations	Maritime Bureau	
Past success	Number of successful attacks in the past 180 days	International own calculations	Maritime Bureau	
Recent disruption	Dummy: Disruption occurred in the past 30/90 days	International own calculations	Maritime Bureau	
IRTC (Internationally Recommended Transit Corridor)	Dummy from February 2009	EU NavFor		
Southwest monsoon	June - August			
Northeast monsoon	January - March			
Post-monsoon	April and September			
(Clear) full moon	Full moon nights with no rainfall in Hargeisa	Somalia Water and Land Information Management (SWALIM)		
Ramadan	Dates of Ramadan			
US Ransom Rule	Dummy from April 13, 2010: US ransom initiative and Al-Shabaab presence in Gharadeere			
MSPA (Marine Security Patrol Area)	Dummy from August 23, 2008 to January 31, 2009			
Holydays	Holy days in the Islamic calendar			
Wave height * Monsoon	Maximum weight height off the Somali coast interacted with the combined monsoon dummies	International Comprehensive Ocean-Atmosphere Data Set (ICOADS)		

Table 2: Logit Regressions on Piracy in the Gulf of Aden

Dependent Variable:	(1)	(2)	(3)	(4)	(5)	(6)
	Incident of Piracy				Successful Attack	
					<i>Full Sample</i>	<i>Given Attack</i>
Southwest monsoon	-0.79*** (0.25)	-0.89*** (0.25)	-1.00*** (0.23)	-0.78*** (0.23)	-1.08** (0.46)	
Northeast monsoon	-0.63*** (0.20)	-0.60*** (0.20)	-0.57*** (0.20)	-0.56*** (0.21)	-0.49 (0.34)	
MSPA	1.13*** (0.29)	0.50 (0.41)				
IRTC 2009	1.01*** (0.26)	0.45 (0.36)				-1.12*** (0.37)
IRTC corridor 2010	0.83*** (0.29)	0.30 (0.38)				-0.95** (0.44)
IRTC					-0.78*** (0.30)	
Number of Successful Attacks in the past 180 days		0.03** (0.01)	0.04*** (0.01)		0.03** (0.01)	
Clear Full moon			0.39* (0.22)	0.40* (0.22)		
Full moon					0.57* (0.33)	
Number of Reported Ransom Payments in the past 90 days				0.12** (0.05)		
Disruptions in the past 90 days				0.12*** (0.04)		
Ramadan			0.55* (0.30)			
Constant	-1.74*** (0.25)	-1.90*** (0.26)	-1.93*** (0.24)	-1.77*** (0.24)	-2.87*** (0.39)	-0.35 (0.23)
Observations	912	912	912	882	912	197
Pseudo R-squared	0.05	0.06	0.06	0.05	0.05	0.05

Standard errors in parentheses. * significant at 10%; ** significant at 5%; *** significant at 1%.

Table 3: Logit Regressions on Piracy off Somalia (both Gulf of Aden and Somali Basin)

Dependent Variable:	(7)	(8)	(9)	(10)	(11)	(12)
	Incident of Piracy			Successful Attack		
Southwest monsoon	-1.14*** (0.23)	-1.27*** (0.24)	-1.27*** (0.24)	-0.78** (0.36)	-0.79** (0.36)	
Northeast monsoon	-0.51*** (0.19)	-0.53*** (0.19)	-0.66*** (0.21)			
IRTC	0.39* (0.20)		0.49** (0.21)	-0.12 (0.23)		0.53 (0.33)
IRTC 2009		0.50** (0.21)				
IRTC 2010		0.14 (0.26)				
Disruptions in the past 90 days	0.13*** (0.04)	0.11*** (0.04)	0.11*** (0.04)	0.13*** (0.05)	0.13** (0.05)	
Number of Reported Ransom Payments in the past 90 days	0.14** (0.06)	0.16** (0.06)	0.15** (0.06)			
Ramadan	0.51* (0.29)	0.51* (0.29)	0.49* (0.29)			
US Ransom Rule			-0.48 (0.30)			
Post monsoon				0.65** (0.27)	0.65** (0.27)	0.88*** (0.29)
Wave height * Monsoon						-0.20** (0.09)
MSPA						0.72* (0.37)
Constant	-1.56*** (0.22)	-1.54*** (0.22)	-1.48*** (0.22)	-2.43*** (0.22)	-2.48*** (0.19)	-2.53*** (0.33)
Observations	882	882	882	882	882	731
Pseudo R-squared	0.08	0.08	0.08	0.05	0.05	0.07

Logit Regressions. Standard errors in parentheses. * significant at 10%; ** significant at 5%; *** significant at 1%.

Table 4: Logit Regressions on Incidents of Piracy in the Somali Basin

Dependent Variable:	(13)	(14)	(15)	(16)	(17)
	Incidents of Piracy			Successful Attack	
Southwest monsoon	-1.29*** (0.37)	-1.35*** (0.37)	-1.44*** (0.38)	-0.94* (0.55)	-0.87 (0.56)
Post-monsoon	0.73*** (0.24)	0.74*** (0.24)	0.66*** (0.24)	1.15*** (0.33)	1.12*** (0.34)
Number of Reported Ransom Payments in the past 90 days	0.16** (0.07)	0.16** (0.07)	0.18** (0.07)	0.06 (0.11)	0.06 (0.11)
IRTC	0.91*** (0.30)	1.03** (0.41)	0.97*** (0.30)	1.02* (0.60)	0.90* (0.47)
MSPA		0.06 (0.44)		0.05 (0.66)	
US Ransom Rule		-0.46 (0.34)		-0.96 (0.63)	
Holydays			0.65* (0.36)		0.19 (0.58)
Constant	-3.11*** (0.28)	-3.12*** (0.35)	-3.24*** (0.30)	-3.97*** (0.51)	-3.98*** (0.44)
Observations	912	912	912	912	912
Pseudo R-squared	0.10	0.11	0.11	0.09	0.08

Logit Regressions. Standard errors in parentheses. * significant at 10%; ** significant at 5%; *** significant at 1%.