

# **Protecting merchant ships by Vessel Protection Detachment (VPD) and Privately Contracted Armed Security Personnel (PCASP): the Italian experience**

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\* The views expressed in this presentation are exclusively those of the author

# International Law and Practice

- Fighting piracy: each State's faculty, no duty
- UNSCRs authorization to use "all necessary means" in fighting piracy
- Protecting merchant vessels against piracy by VPD in HRA : 1) Flag State right; 2) recommended option under BMP4 in respect of PCASP
- Use of VPD in Atalanta practice
- Use of PCASP according with 2009 New York Declaration ("Open Registry Countries" practice)
- Status of merchant vessels defended by both VPD and PCASP does not change;
- Status of VPD Personnel embarked on national merchant vessels: State official enjoying functional immunity;

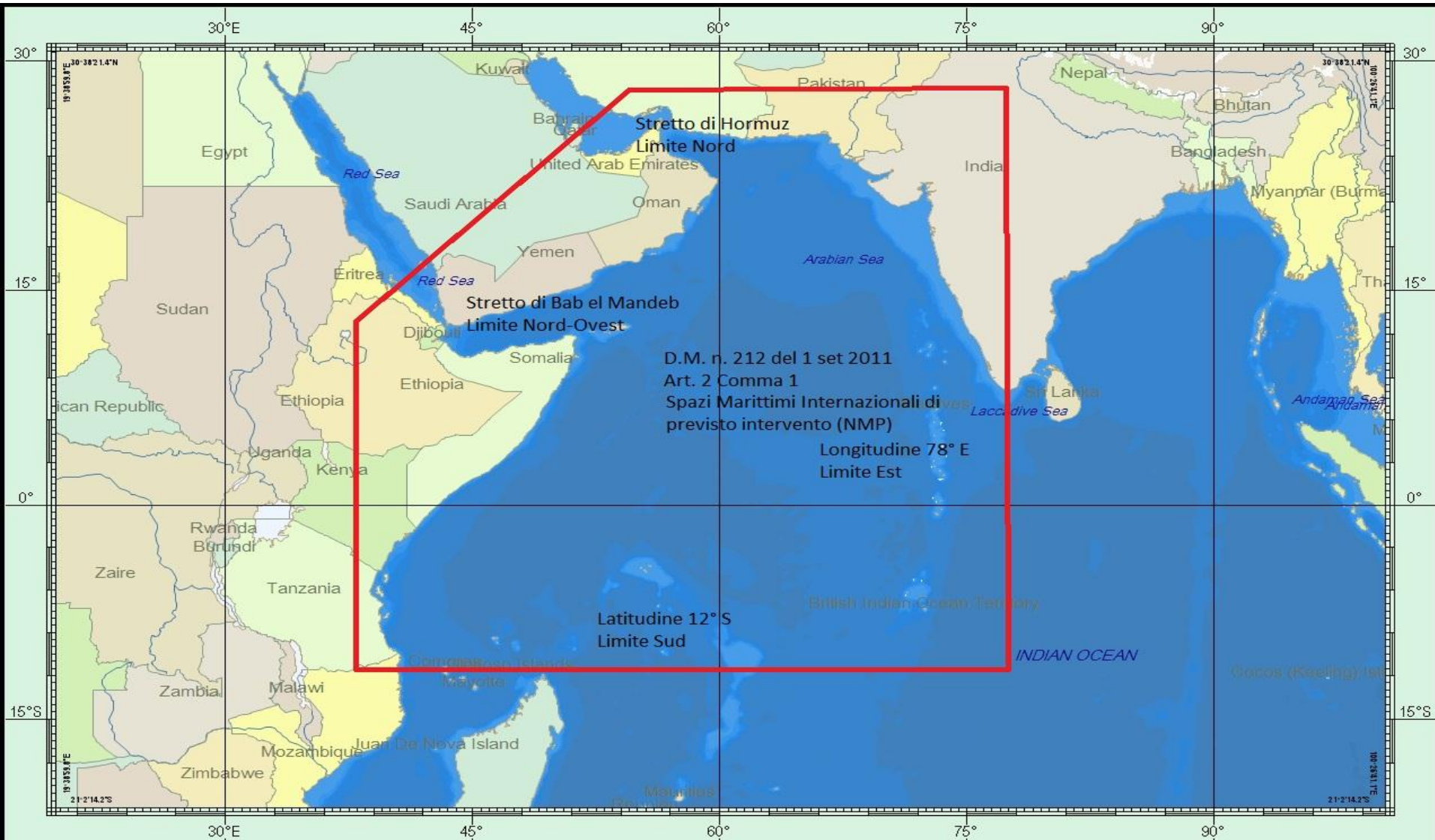
# Italian Legal Framework

- Navy tasks are: 1) fighting piracy; 2) ensuring the freedom of navigation of Italian flagged merchant vessels; 3) protecting nationals abroad
- Navy Personnel is entitled to carry out police functions in specific matters
- Armed Forces can request private companies to reimburse partially the cost of a service requested to MoD on the basis of a convention
- Armed Forces are not authorized to use “contractors” supporting military operations abroad
- Ministry of Interior Affairs regulation on the use of private armed security personnel in protecting banks and commercial activities is very restrictive

# Italian Legislation on VPD & PCASP

- Italian Act 2010-211 tackles the piracy risk in the Indian Ocean (4 IT flagged vessel hijacked)
- Italian Ship Owners Confederation not in favour of the use of PCASP
- After a careful examination of the various options, the Parliament has chosen a dual solution since the ship owners can request, in a specific part of the HRA established by a Decree of the MoD, the protection of:
  - The VPD (“Nuclei Militari di Protezione, a 6 elements unity), not dependent on the ship master, part of the MoD chain of command, acting under specific ROE, performing judicial functions;
  - In alternative, the PCASP , In Italian “Guardie Giurate”, when the VPD protection services cannot be provided and the ship applies the BMP ( a Decree regulates their employment: self defence use of force, individual light weapons, firearms authorization issued to the shipowner, overriding authority) of the master)

# HRA under IT Decree 217/2011 where VPDs and PCASPs operate



# Conclusion

- Countering piracy is a faculty of each State that has the monopoly on the use of force and “can decide who can exercise it and under what conditions”
- The use of VPD is consistent with this principle; equally valid is the use of PCASP, but flag State has to regulate their activity exercising the “genuine link”
- Italian experience on VPD –a part from the “Enrica Lexie case”- is very positive (more than 100 protection missions); the use of PCASP is going to start under the 2012 Decree;
- While the HOA Piracy is decreasing a new threat rises in the GOG
- It must be consolidated the practice of both VPD and PCASP: an effective tool for each State interested to protect on the high sea its maritime traffics if policing the sea by warships is impossible or not cost-effective

# END OF THE PRESENTATION

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