

IMLI *e*-News

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Italian Navy Legal Adviser:

“IMLI brings together various experiences and cultures...”

IMLI students had recently the honor to attend a set of lectures delivered by the Head of the Legal and International Juridical Affairs of the Italian Navy General staff, Capt. Fabio Caffio.

Capt. Caffio has had an outstanding military and legal career, having been involved as a legal adviser in many international (peace) operations, as for example the 1997 “*Multinational protection Force (MPF) operation*” in Albania and the 2002 “*Enduring Freedom*” operation in Afghanistan. Furthermore, Capt. Caffio has been a member of the Italian delegation at the Rome Diplomatic Conference for the Statute of the International Criminal Court (1998) and a representative in several Italian delegations for the discussions/negotiations of maritime affairs with other countries (*USA, Tunisia, France, Spain, Slovenia, Croatia, Serbia – Montenegro*).

Capt. Caffio, lecturing to the 17th generation of IMLI Lawyers.

During his stay at IMLI Capt. Caffio delivered a set of lectures on two important maritime law subjects, *Maritime Law Enforcement* and the *Law of Naval Operations*.

Capt. Caffio, which were the highlights of your lectures at IMLI ?

The legal regime of maritime spaces under UNCLOS is the key element to understand which kind of measures can be applied in favor of the legality of international navigation. We have to consider, in fact, that in international waters (*contiguous zone and E.E.Z.*), as well as on the high seas, there is a complete equality among countries. No enforcement actions can be carried out by warships against third State’s suspected merchant vessels without the consent of the flag State (with the exception of specific cases ruled by

UNCLOS, Art. 110). The truth is that the principle of non-interference with the freedom of navigation has not changed even though new international instruments containing boarding provisions have been approved (*ex. the 2005 SUA Protocol related to the maritime terrorism*).

How do you see the role of the Navy in the post cold war era ?

The non-military role of Navies in time of “violent peace” (*Maritime Law Enforcement - MLE*), is increasing. This depends on the new threats of maritime terrorism also related to the transportation of Weapons of Mass Destruction (WMD). The *Proliferation Security Initiative* (PSI) is the expression of the deep concern of the international community about the traffic, mainly by sea, of WMD.

But the legal obligation of Navies in carrying out the MLE is still to acquire the consent of flag State before boarding a suspected merchant vessel. The only exception continues to be the case of piracy, which is considered under international law a “*crimen iure gentium*”. Maritime countries, in the framework of IMO, are focusing their attention on piracy. Several piracy attacks have been conducted against merchant vessels from the coast of Horn of Africa or in others areas. Italy, well aware of the need to protect commercial navigation of national vessels (*two Italian merchant vessels were attacked off the coasts of Somalia in 2005*) sent a frigate in the area of Horn of Africa to prevent any attack against national flag vessels.

What are the priorities of Navies in (semi) enclosed seas (ex. Mediterranean)?

Navies operating in enclosed sea need to optimize their efforts against illegal traffics. In order to achieve this aim, one of the most useful tools are multinational naval forces, like “EUROMARFOR”(joined by Italy, France, Spain, Portugal) which can be considered the first nucleus of the European Naval Forces. European Navies need also to cooperate strictly with other European national maritime authorities (*coast guards, maritime affairs etc*).

With this regard we have to note that joint European maritime forces have operated under the projects *Ulysses* and *Neptune*. These projects, devised by the SCIFA (Strategic Committee on Immigration, Frontiers and Asylum) for the purpose of surveillance of sea routes used by migrants, involves naval, police and coast guard forces from Cyprus, France, Greece, Italy, Portugal, Malta, Spain and the UK and other concerned countries (depending on the area of intervention) of the Southern Mediterranean (ex. Lybia and Tunisia).

What is your opinion about IMLI ?

I'm really positive about IMLI and all the activities carried out by the Institute. I strongly believe that IMLI has the unique capability to bring together representatives from many different countries gathering various experiences and cultures. It is also remarkable the attitude of IMLI to deal with all the main maritime issues, including the new dimension of maritime security.

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