EXPOSÉ

OBJECT: Technical analysis and observations about the case of the Italian oil tanker Enrica Lexie and of the two Italian marines Massimiliano Latorre and Salvatore Girone, who are jailed in India and accused of the murder of two persons.
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PREMISE

The undersigned Luigi Di Stefano, born in Rom on 3/5/1952 and herein residing in [redacted], n. [redacted] Zip code [redacted], tel. [redacted]

Presents the following exposé about the events which will be described below with the purpose of providing the Public Prosecutor's Office with observations and insights. If the Bench notices that my observations contain relevant elements which lead to the conclusion that the defendants' right of a fair process and fair trial has been violated or that any other violation has been committed the decision of injunction shall be left to the judgment of the Bench.

I have been following the case mentioned in the object in the press since many months. I collected some elements which can likely give a quite exhaustive frame about the many and diverse aspects of the case.

As I have acquired experience in conducting complicated technical surveys over time (see attached document 01 – professional CV) both as a technical expert of the defendant and as an assessor of the public prosecutor's office (see attached document 02 – expert for the public prosecutor's office at Ancona) all the elements I collected and organized in a unitary frame are of technical nature and are about positions and course of the vessels, timeline, analysis of the available evidences.

Even if no official information about the investigations conducted by the Indian authorities has been released, there are documents issued by international organisms about the case which I will take into account and analyze in the following.

Moreover, according to best practice, in the Italian judicial system and legal proceedings the rights of the defendant must be respected, especially concerning a fair technical analysis of the exhibits or evidences for the prosecution.

Finally, in the case of more than one alleged culprit the prosecutors have to look into all alleged guilty parties in order to verify the culpability of each party.

In analyzing the whole story, I became convinced that the Indian authorities conducted the criminal investigations neglectfully, they did not take into account other alleged culprits and repeatedly concealed critical facts.

Under these premises, a fair trial in India for Latorre and Girone can not be guaranteed, as the Italian judicial system would require.

Therefore, as the prosecutors base their accuses on investigations conducted neglectfully and repeatedly concealed critical facts and destroyed relevant exhibits, the two Italian marines must be detained in Italy in order to be taken to trial according to the Italian judicial system.

This is one of their inalienable rights as Italian citizens.
Elements proving the neglectfulness of the investigations of the Indian authorities which overlooked other potential and alleged culprits.

THE "BLACK AND RED" VESSELS

As it is known, the accusations against Girone and Latorre are based on two elements:

- the eyewitness account of one or more fishermen embarked on the fishing boat St Anthony, who reported that they came under fire and that the shots were fired from a black and red vessel
- the report of the Indian authorities, who state that they called by radio all the vessels in the area, four altogether, and asked them if they had been involved in a pirate attack.

At 18.20h local time, after having received an alert from the fishermen who had hastily brought the ship into port with the two colleagues shot dead on board, the Indian Coast Guard picked up the presence of 4 vessels navigating over the area and compatible with the eyewitness accounts by the fishermen who had survived the attack.

Actually, the black and red vessels in the area were 5: Enrica Lexie, Kamome Victoria, MBA Giovanni, Ocean Breeze e Olympic Flair.

The only vessel which was not contacted by radio is the Olympic Flair. None of the contacted vessels responded. Only the Enrica Lexie responded positively and the crew reported that the marines on board shot warning shots into the water. The Enrica Lexie turned around and docked at Kochi.

It is easy to verify that the five vessels are all black and red and that the decision of prosecuting the Enrica Lexie only, both at once and later in the criminal investigations points to negligence. Moreover, the fishermen's eyewitness account was not taken into account.

All this happened in spite of the fact that the Indian authorities were well aware of the pirate attacks off the coasts of Southern Indian and especially off the coast of Kochi, as the international organizations monitoring piracy in the area and engaged in the fight against piracy reported.

Hence, the Indian authorities could not ignore the fact that at the same time two different attacks occurred, which had involved two different vessels.

The arbitrary decision of considering the alleged culprit to be the vessel which responded the call points to a negligent way of conducting the criminal investigations.

The most striking decision of the Indian authorities is the decision of not contacting by radio the Olympic Flair. I will come back to this point later on.

The ICC–IMB (International Chamber of Commerce - International Maritime Bureau) in its report with the title "Piracy and armed robbery against ship" (attached document - 03) about the period from 1st January to 30th September 2011 declares that 6 attacks occurred, 4 of them in the harbor of Kochi.
This confirms that in the area off the coast of Kochi pirate attacks occurred more frequently than in other areas off the Indian coast. And it was well-known. But it also confirms that the decision of prosecuting the crew of the Enrica Lexie alone is intentional, determined by reasons which can not be analyzed here and which are not aimed at shedding light on what really happened.

The five vessels in the area (Enrica Lexie, Kamome Victoria, MBA Giovanni, Ocean Breeze and Olympic Flair) have the same colours and the same structure.

It is evident that taking the eyewitness accounts by the fishermen into account the investigations both after the incident and later on should involve all five vessels because of their similarities.
The pictures of the vessels are easily to be found on the net, and it seems to be completely odd that the eyewitness accounts by the fishermen did not lead the Indian authorities to supplementary investigations and to invite the other crews to give statements.

The behavior of the Indian authorities seems to show a certain degree of negligence and to be intentional. Their purpose of accusing of murder one and only one alleged culprit seems to be evident.

**The Greek Oil Tanker Enrica Lexie and Indian Authorities’ Negligence in the Criminal Investigations**

While the Enrica Lexie was turning back to Kochi overtaken by two unitities of the Indian Navy, Samar e Lakshimibai, and by a maritime patrol aircraft, Dornier 228, at 22.20 local time the Indian Coast Guard at Mumbai and the maritime authorities at Kochi were informed that the Greek oil tanker had been attacked by alleged pirates.
This document (attached document 04) released by the IMO (International Maritime Organization) certifies that except all other authorities both the Indian Coast Guard and the maritime authorities in Kochi at 16:50 UTC (22:20 local time) were informed that the Greek oil tanker Olympic Flair had been attacked by pirates.

On the following page we can see the report by the ICC (attached document 05) about the same pirate attack reported by the Greek oil tanker Olympic Flair.

Hence, we have the documents of two international organizations which certify that the pirate attack against the Olympic Flair did occur and that at 22:20 local time both the Indian Coast Guard in Mumbai and the maritime authorities in Kochi were informed about the attack.
At this point and against this background we have to point out that

- Time and position of the pirate attack indicated by the Olympic Flair are false
- It is not credible that the Indian authorities did not know that time and position indicated by the Olympic Flair were false

If one day one will find out that the Indian authorities were really not informed about the pirate attack against the Olympic Flair, this would only confirm their negligence – voluntary or not – in conducting the investigations. This would change nothing at all.
As a matter of fact, we can observe that at 22:20 local time (16:50 UTC) when the Indian authorities received from the ICC (or from the IMO or from both of them) the message about the pirate attack against the Olympic Flair, the oil tanker Enrica Lexie together with the warships Samar and Lakshimi Bhai and with a maritime patrol aircraft Do-228 of the Indian Coast Guard were exactly in the stretch indicated by the Olympic Flair as the stretch where it was attacked.

The following picture (attached document 06), which is the result of the reconstruction of the course and position with reference to the motion data and timeline (from an official document of the Indian Coast Guard, attached document 07), allows to come to the conclusion that the pirate attack against the "Olympic Flair" happened while the oil tanker "Enrica Lexie", the warships Samar and Lakshimi Bhai and a maritime patrol aircraft Do-228 of the Indian Coast Guard were nearby.

It is not credible that none of them noticed the attack against the Olympic Flair and that the Olympic Flair did not give the alarm. Moreover, this sequence of the events would imply both negligence of the Indian Coast Guard and a quite strange behavior of the crew of the Olympic Flair, which during the pirate attack decided not to ask the military units for help, which could be seen both on the on board radar and at sight.

The only possible explanation is that the Olympic Flair was attacked by pirates elsewhere and at a previous time.

And this explains why the Indian Coast Guard did not contact the Olympic Flair when the Indian authorities contacted the vessels in the area by radio.

In the same document of the Indian Coast Guard (attached document 07) it is reported that the vessels involved in the incident of the St. Anthony were searched using the AIS system.

Evidently the Olympic Flair did not appear in the AIS system of the Indian Coast Guard, otherwise they would have been contacted by radio like the other vessels.

We need the confirmation for this.
Luigi Di Stefano

THE CASE OF THE ENRICA LEXIE – EXPOSE'

Luigi Di Stefano

http://www.seeninside.net/piracy

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THE AIS SYSTEM AND THE MISSING VESSEL

The AIS or Automatic Identification System is an automatic tracking system used on ships and by vessel traffic services (VTS) for identifying and locating vessels by electronically exchanging data with other nearby ships AIS Base stations and Satellites. Information provided by AIS equipment, such as unique identification, position, course, and speed, can be displayed on a screen or an ECDIS.

AIS is intended to assist a vessel's watchstanding officers and allow maritime authorities to track and monitor vessel movements. AIS integrates a standardized VHF transceiver with a positioning system such as a LORAN-C or GPS receiver, with other electronic navigation sensors, such as a gyrocompass or rate of turn indicator. Vessels fitted with AIS transceivers and transponders can be tracked by AIS base stations located along coast lines or, when out of range of terrestrial networks, through a growing number of satellites that are fitted with special AIS receivers which are capable of deconflicting a large number of signatures.

The International Maritime Organization's International Convention for the Safety of Life at Sea requires AIS to be fitted aboard international voyaging ships with gross tonnage (GT) of 300 or more tons, and all passenger ships regardless of size.

Therefore, the AIS is a security and control system, in which each vessel records its navigation data, which can be retrieved by other vessels and land stations, and allows in this way to monitor and prevent incidents and to bring help when necessary.

As the AIS is an open source system and hence accessible for anyone who has the necessary equipment, many private and public sites on the net record the AIS data of the vessels and store them in a database. These data are available for the Internet users.

It is hence possible for each vessel equipped with an AIS system to reconstruct positions and timeline and this is what was done in the case of the Olympic Flair, because both the indicated position and the indicated time of the pirate attacks seemed to be false.

The result confirmed our hypothesis. The Greek vessel disappeared from the AIS attendance monitoring system off the coasts of Southern India for a very long time during the days of the events. It has a one-week time gap.
In order to verify the AIS data I used the BLM-SHIPPING rel. 2.0 software and the database of the AIS data of the BoLooMo International Group Ltd. (Beijing, China) http://www.boloomo.com/shippingMain_en.html.

The data are available on the net, free or not.

The picture (attached document 08) is about the AIS data of the Greek oil tanker Olympic Flair from 12th February 2012 to 20th February 2012, a period which includes the day of the incident of the Enrica Lexie occurred on 15th February 2012.

The Greek vessel disappeared from the AIS attendance monitoring system on 13th February 2012 at 00:29 UTM local time while it was sailing in the direction 146,3° at a speed of 13,3 kts to Kochi where it was awaited on 15th February at 08:00 UTC (13:30 local time).

At this point it disappeared from the AIS attendance monitoring system.
It appeared again in the same area on 20th February at 05:36 UTM sailing to Arzew (Orano, Marocco, where it had to arrive on 1st December, 10 months later!). A few hours later at 19:14 UTM it changed course and sailed to Khahg Island, where it arrived on 23rd February at 23:59 local time.

We have hence the proof that the Olympic Flair spent a week off the coasts of Southern Indian without being tracked by the AIS. It is sure that it was there, for it reported a pirate attack on 15th February.

**ANALYSIS OF THE AIS DATA**

The distance, timeline and positions at the moment of the last AIS signal show that the Olympic Flair was sailing to Kochi where it was awaited at 8 on 15th February.

The simple verification of time and space indicates an average speed of 10, 7 kts which is compatible with the speed of 13,3 kts indicated by the AIS system.

But if we think for a moment that the Olympic Flair left Kochi to sail to north at the moment of the pirate attack, at 16:50 UTC (22:20 local time) it sailed at a speed of 5,6 kts, while according to the AIS System when it reappeared it sailed at a speed of 15,3 kts.

But if the Olympic Flair sailed to Kochi and back at a normal speed, it has a 50 hours gap, two days, in which we do not know where it was and what its course was.

This two day time gap can mean anything. It can mean that the Olympic Flair was not in the stretch it indicated as the stretch where the pirate attack occurred or that it was attacked, boarded, kidnapped and then freed by armed men or that the Olympic Flair is the black and red vessel which opened fire on the St Anthony and so on.

We can not know exactly what happened. An inquiry would be necessary. But the Indian authorities were not interested in conducting it.

Unfortunately, these – despite the report of a pirate attack by a vessel which had disappeared from the AIS attendance monitoring system and which was not in the stretch it indicated – did not search for the Olympic Flair, they just decided that there was only one alleged culprit, the Enrica Lexie, and only one guilty party, the Italian marines.

At this point we should try to answer another question:

Was the reason for this decision of the Indian authorities negligence or malice? Did they really ignore the strange story of the Olympic Flair?

Let's have a closer look.
THE OLYMPIC FLAIR AFTER THE 15th FEBRUARY 2012

In this press release of the press agency ANSA published on 21st February (attached document 09) (6 days after the incident) the pirate attack against the Olympic Flair is mentioned as well as the ICC report.

Immediately after the incident it was known that on the same day the Olympic Flair was attacked by pirates. This was the beginning of debates and criticism against the Italian sources, which were accused of inventing the episode of the Olympic Flair with the purpose of clearing the marines of all charges indicating the Olympic Flair as the only culprit.

Even if the Indian authorities knew that

- The pirate attack against the Olympic Flair did occur (they received the ICC and IMO report);
- The position and the time of the attack indicated by the Olympic Flair were false (because Indian ships and an aircraft were in the stretch indicated by the Olympic Flair as the stretch were the attack occurred);
- The Olympic Flair disappeared from the AIS System (they did not contact it by radio and it appeared only on 22nd February when it sailed to north, far away from India).
They declared nothing about the Greek vessel. They did nothing against the media campaign against the Italian marines. Even if they were informed about the pirate attack against the Olympic Flair, they did not confirm the information given by the Italian sources. In this way, the disdain for the Italians increased in the Indian society. Moreover, they explained how they could trick the Enrica Lexie to coming to the port of Kochi.

It seems to be clear that the intention of the Indian authorities was to make believe that there was only one alleged guilty party.

Against this background, we can conclude that also in the case of the role of the Olympic Flair the Indian authorities showed a certain degree of negligence. It seems to be clear that their only aim was to consider the Italian marines as the only guilty party without taking into account other possible alleged culprits.

As they did nothing against the media campaign against the Italian marines and did not explain the circumstances they were quite well aware of and which cleared the Italians of the murder they are accused of, their negligence was hence intentional.

**Repeatedly concealment of critical facts and destruction of relevant exhibits (so called Investigative Acts that cannot be repeated)**

In any judicial proceedings it is always necessary to conduct a technical analysis, which is usually carried out by an expert in the specific field.

If the investigations can probe a punishable offence and the alleged culprit is accused of a crime, the defendant has the right to let an own expert analyze the exhibits the claimant used to formulate the accusations.

The reasons for this are obvious: the technical analyses and survey of the exhibits can have probative force, but they can also be misinterpreted or interpreted in a different way.

The prosecutor has to decide about the interpretations to be followed and the conclusions also by asking for other technical surveys to be conducted by a different expert, who usually analyze all the exhibits again.

The Public Prosecutor's experts are not allowed to conceal or to damage or to destroy the exhibits (so called *Investigative Acts that cannot be repeated*).

Such acts can make the whole investigation as well as the dispute settlement procedure in a prosecution invalid and violate hence the right of a fair trial and process.

In the following page you can find my assignment as Assessor to the Public Prosecutor's office of Ancona (*attached document 02*) I got on 13th September 2005 in order to carry out a technical survey in a complicated issue in the field of aeronautics.

The document contains the clear statement that the expert conducting the survey does not have to conceal or to damage or to destroy the exhibits (Investigative Acts that cannot be repeated).

Actually, here it is not necessary to remark once again that negligence undermines the structure of any judicial proceedings and violates the right of a fair process.
The Indian authorities did lack due care in conducting the technical analysis especially on the fishing boat St Anthony.
As a matter of fact, the fishing boat after a few months after the incident was given back to the owner and this one – intentionally or not – let it sink.

Once again it is evident that the Indian authorities did lack due care in keeping the exhibits.

The fishing boat was one of the main exhibits to be analyzed in conducting a technical survey having probative force. The fishing boat has been destroyed and it can hence not be analyzed any more. All surveys conducted on the fishing boat can not be repeated, as it was damaged by sea water.

We have only some pictures of the sunk fishing boat St Anthony, but they are illuminating. Here one of the pictures showing the sinking. (attached document 10)

And in the following picture we can see the fishing boat – high and dry – left in a state of abandon (attached document 11) and it could hence be easily manipulated.
What kind of survey can be conducted on such a central exhibit like the fishing boat in such an investigation?

Let's describe them in the following list:

- To find the bullets or traces of them;
- Technical and chemical analysis of them with the purpose of finding out the cartridge, and the bore, and to identify the manufacturer of the bullets and the batch;
- Analysis of the entrance and exit bullet holes or signs of streaking in order to find out the trajectories, the type of bore, the bore itself;
- Analysis of the traces of gunpowder and traces of the bullets around the bullet holes;
- Biological analysis in order to find blood traces with the purpose of finding out the positions of the fishermen shot dead;
- Ballistic expertise with the purpose of finding out if there were on the boat traces of different sorts of gunpowder or of other persons among the crew;
- Analysis of the structure of the fishing boat in order to verify the statement of the witnesses.

And so on.

But the Indian authorities gave the fishing boat back to its owner. They knew that the lack of due care in keeping the fishing boat would make any repetitions of the analysis impossible.

Moreover, the unilateral decision of the Indian judiciary not to admit the two officers of the Carabinieri, the ballistic experts sent by the Italian government, as experts shows the intention of not giving the defendant the possibility to have a fair process and a fair dispute settlement procedure.

Once again we have to admit that like in the case of the black and red vessel also in the case of the fishing boat St Anthony the Indian authorities showed a certain degree of negligence, intentional or not.

Such negligence prevents from protecting the fundamental rights of the defendant to let the own experts analyze the exhibits. If I had had the same conditions and premises while I was analyzing the exhibits in the Ustica case, the prosecutors had destroyed the DC9 after their own survey without waiting for a comparison.
CONCLUSIONS

In my opinion the dispute settlement procedure has to be considered to be invalid because of a high degree of negligence in conducting the investigations and the technical survey with whatever intention.

My life-long experience in conducting technical surveys leads me to the conclusion that the right of a fair process has been violated.

The destruction of the main exhibit does not allow to repeat the analysis on the same exhibit. Hence, the Special Court in India, which will try Latorre and Girone, could

- Declare the invalidity of the dispute settlement procedure and clear the two marines because of the lack of evidences and the impossibility of repeating the technical survey;
- Consider the whole dispute settlement procedure of the police of Kerala to be valid and try the marines, violating in this way their right of a fair trial

I would like to repeat once more that I used as references of my argumentation the following documents:

- The ICC and IMO release (attached document 05)
- Official reports of Indian sources (attached document 07)
- The picture of the fishing boat St Anthony released by the Indian press and to be found on the net (attached document 11 and 12)

Therefore, as

- The Indian authorities conducted the survey and investigations in a negligent manner
- The results of the investigations could lead to the marines' conviction if the investigation is considered to be valid
- The criminal offence the marines Latorre and Girone are charged with can be punished with death penalty. The execution of a judgment of death will take place in India according to a recent agreement between the Italian and the Indian government
- According to Italian law and European legislation Italy can not send citizens accused of murder to a country where there is the capital punishment and where the dispute settlement procedure is doubtful and violates the rights of the defendant to have a fair trial

I ask the Italian judiciary

To acknowledge that the Indian authorities committed a crime against Girone and Latorre by conducting the investigations in a negligent manner and violating the defendant's right of a fair trial
THE CASE OF THE ENRICA LEXIE – EXPOSE'

To prevent Girone and Latorre from going back to India (by seizing their passports for example and withdrawing the ones they have now. The Indian authorities lost their old passports when they sent them by post).

This would be necessary also if they declare to want to go back to India voluntarily, for their decision could have been influenced by the circumstances as well as by Italian diplomatic and economic interests over the last year. The friendly diplomatic relationship between Italy and India has been compromised by the behavior of the Indian authorities, which injures our national dignity and violates the defendant's rights of having a fair trial.

For all these reasons and because the two marines were performing an act of State at the moment of the incident, for they were part of a detail of six embarked on anti-pirates protection service on board of the Italian oil tanker “Enrica Lexie”, they can not decide voluntarily to face trial in India and to endorse the responsibility for what happened.

The responsibility has to be endorsed by the State and hence by the Italian judiciary.

I remain at disposal of the public prosecutor's office for any further explanations. I would like to be informed if this exposé is filed.

I herewith declare that I have no financial interest in following this case.

Roma, 06/03/2013

Respectfully

Luigi Di Stefano

ATTACHED DOCUMENTS TO THIS EXPOSÉ

- 01 – CV of the undersigned
- 02 – Copy of the assignment to the prosecutor’s office at Ancona (Italy)
- 03 - Report “Piracy and armed robbery against ship” released by the ICC-IMB (International Chamber of Commerce - International Maritime Bureau)
- 04 - IMO (International Maritime Organization), GISIS – Piracy and Armed Robbery . Incident details
- 05 – ICC (International Crime Services) Report attack number 054-
- 12
- 06 – Reconstruction of the context at the moment of the pirate attack against the Olympic Flair
- 07 – Report of the National Maritime Search and Rescue Board of India, which contains the report about the Enrica Lexie and the Indian warships
- 08 – Data of the AIS system about the Olympic Flair
- 09 – Release of the press agency ANSA published on 21st February 2012
- 10 – Picture of the sunk fishing boat St. Antony
- 11 – Picture of the fishing boat St. Antony after sinking
- 12 – DVD with this exposé and the attached documents in HTML Allegato 12 – Disco DVD contenente il presente documento e gli allegati in formato HTML per una più facile consultazione.
THE CASE OF THE ENRICA LEXIE: TECHNICAL ANALYSIS OF THE TRAJECTORY OF THE BULLETS

ATTACHED DOCUMENT TO THE DOCUMENT N. 051695 (registered at the Public Prosecutor’s Office on 13th March 2013)

OBJECT: Technical analysis and observations about the case of the oil tanker Enrica Lexie and of the two Italian marines Massimiliano Latorre and Salvatore Girone jailed in India and accused of the murder of two persons.
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TECHNICAL ANALYSIS OF THE TRAJECTORY OF THE BULLETS

PREMISE

One of the elements that puzzled the people who went on board of the Indian fishing boat St Anthony in the Neendakara port is the trajectory of the bullets, unanimously considered to be "horizontal".

This is not compatible with the shooting position of the two marines of the 2nd San Marco Regiment who declared to have opened fire and to have shot warning and barrage shots from the upper starboard deck (right) of the Italian tanker, which means hence from a considerable height from the sea level.

In order to anticipate the way I will carry out the measurements I would like to call to mind here that the Italian tanker was navigating with empty tank, hence with minimal draught and maximal height. In the next picture the position of the two marines with reference to the height from the sea level (equivalent to a 7 floor high building).

Moreover, we know that the anti-pirate action had a precise timing:

- when the vessel (aggressor) was at 800 meters away, the visual signals and the weapons were shown;
when the vessel (aggressor) was at 500 meters away, they shot into the water; at about 50/60 mt. away from the tanker the vessel changed direction and turned away, and the barrage shots stopped.

Against this background, we have the possibility to develop a 3D reconstruction, to identify the angles of the impact on the vertical trajectory of possible bullets shot against the vessel.

As this analysis will take place on the basis of the only trace of bullet found on the fishing boat, which allows us to identify the angle of the vertical impact, we will consider as a target exactly that trace.

My considerations are based on the fact that identifying the compatibility or incompatibility of just one shot will give us a first proof.

PRELIMINARY ASPECTS

According to the controversial eyewitness accounts by the fishermen and considering the fact that the different Italian subjects who were present at the moment of the event were not allowed to report in public what they saw (we do not know if it was just self-restraint) we have three elements allowing us to analyze the compatibility between the positions and the traces of the bullets found on the fishing boat St Anthony using the many and diverse available pictures and videos:

1. Report of the Chief of the detachment Massimiliano Latorre: "the vessel was approaching on a collision course at prow";
2. Interview given by the fishermen to the newspaper The Hindu on 17th February 2012: "we were sailing towards south";
3. Interview by Mr Freddy given to Fiamma Tinelli on 21st March 2012 (at the presence of other members of the crew): "No, we were not approaching the vessel, we were sailing parallel to the ship in the opposite direction."

As we will see, point -1- and -2- are similar, while point 3 is completely different and more difficult to be verified.

Moreover, point -3-, "parallel and opposite navigation", is the only one according to which considering the position of the tanker and of the vessel the fired shots from the upper
starboard deck of the Enrica Lexie can reach the right side of the approaching vessel having a "parallel and opposite" course.

We will hence analyze first point -3-, "parallel and opposite" course, trying to verify the compatibility of the traces of the bullets both on the vertical plane and on the horizontal plane and we will integrate the two planes in a virtual 3D reconstruction.

**ANALYSIS OF THE RECIPROCAL POSITIONS WITH "PARALLEL AND OPPOSITE" COURSE**

**HYPOTHESIS ABOUT THE IMPACT OF THE BULLETS ON THE VERTICAL PLANE**

Here we assume that the approaching vessel was sailing in an opposite and parallel direction to the Enrica Lexie, with a divergent angle equal to "zero".

In the 3D picture above we reported the reciprocal positions during the events:

- vessel at 500 meters away from the tanker, start shooting into the water;
- vessel at 300 meters away from the tanker;
- vessel at 100 meters away, at about the centre of the tanker and 50 meters on the right side of the gunwale.

The lines represent the angles of the impact for each bullet shot into the air from the starboard deck (right) at 100 meters (red), 300 meters (blue) and 500 meters (light blue)
Above – the extension- the resultant vertical angle of the impact of the bullet seems to be:

<table>
<thead>
<tr>
<th>DISTANCE (meters)</th>
<th>ANGLE (° centesimal)</th>
</tr>
</thead>
<tbody>
<tr>
<td>500 mt.</td>
<td>2,09°</td>
</tr>
<tr>
<td>300 mt.</td>
<td>3,10°</td>
</tr>
<tr>
<td>100 mt.</td>
<td>10,49°</td>
</tr>
</tbody>
</table>
TYPE OF IMPACT OF THE ANALYZED OBJECT

This hole is indicated in a BBC video broadcasted on 28th February 2012 and in the report it is arbitrarily considered to be the “entrance hole”.

Above – the owner/master of the St Anthony indicates the bullet hole, found on:

- the starboard side;
- back jamb of the cabin of the St Anthony;
- after the last glass towards the back side of the cabin.
Above – Under the roofing on the back side of the cabin, the bullet exit hole, tagged by the police with a yellow tag n. 13, the picture is an excerpt from a Bloomberg video. Above

– The line of fire on which all the angles are measured is the position of the bullet hole present on the St Anthony and visible in the videos.
[A] – The entrance hole (indicated by the owner, without any tags) on the right side of the cabin;

[B] – The exit hole on the back right side of the cabin, tagged by the police with a yellow tag n. 13.

**BRIEF CONSIDERATION ABOUT THE WAY EXHIBITS WERE TAGGED**

Above – On the bottom (highlighted) we can see a yellow tag that indicated another bullet hole.
Above - blowup of the bullet hole corresponding to the yellow tag at the bottom, at the level of the legs of the owner. The picture shows that the hole during the survey was tagged during the survey of the local police with a yellow tag.

**NOTE:** If one finds out that the yellow tag represents exclusively the tag of the entrance holes the hypothesis that the marines embarked on the Enrica Lexie shot against the St Anthony will fall to pieces. As a matter of fact, during the whole approaching attempt and till about 100 meters away from the upper right deck and 50 meters away from the starbord gunwale the approaching vessel has never shown its back part.

**VERIFICATION OF THE ANGLE OF THE VERTICAL IMPACT**

In this technical analysis we are interested in finding out if the angles of the impact of the bullet are compatible with the angles of impact calculated in the 3D reconstruction.

First of all, we will verify the compatibility of the vertical angles.

In order to claim that the shot was fired from the Enrica Lexie we have to find an angle of impact with reference to the horizontal plane considering:

- $2,09^\circ$ in the case of the shot at 500 meters
- $3,10^\circ$ in the case of the shot at 300 meters
- $10,49^\circ$ in the case of the shot at 100 meters

As we do not know the measures of the glasses shown in the pictures and we can not guess them by looking at the pictures, we can calculate the percentage on the position of the bullet entrance and exit holes.
THE STRUCTURE OF THE ANALYSIS

If the two windows which are identical were 100 x high and the entrance hole x1 and the exit hole x2 were on the median strip we could claim that the trajectory of the bullets was parallel to the horizontal plane.

In this example the incompatibility of the angle of the vertical impact measured in the previous 3D simulation which indicated how compatible the angles between 2,09° and 10,49°are.

Therefore, it is necessary to know the measure of the distance between the points A-X1 and A-X2.

It is enough to know the percentage of the stretch A-X1 and A-X2 in order to have the corresponding positions with respect to the basis of the glass and hence to have the inclination with reference to x1 and x2 on the horizontal plane.

Above – Comparison of the position of the two bullet holes, the entrance hole on the right and the exit hole on the left.
GLASS X1 – BULLET ENTRANCE HOLE

On the left – In this picture we can see the whole glass adjacent to the bullet entrance hole.

We can hence estimate the position percent of the hole with respect to the basis of the glass.

Estimate of the percentage of space between the basis and the height of the bullet hole:
- It occupies 42,59% of the available space.

GLASS X2 – BULLET EXIT HOLE

On the left– In this picture we see the whole picture adjacent to the bore exit hole.

We can hence estimate the position percent of the hole with respect to the basis of the glass.

Estimate of the percentage of space between the basis and the height of the bullet hole:
- It occupies 42,00% of the available space.
VERIFICATION OF THE ANGLE OF THE VERTICAL IMPACT – CONCLUSIONS

We now report the dates in a CAD technical design and we can see that the vertical difference between the two bullet holes, X1 corresponding to the entrance hole and X2 corresponding to an exit hole, is represented by an angle of impact of 0.76° from the bottom.

As the minimal acceptable angle for the shot from a 500 meters shooting distance is 2.09°, which increases for shorter distances, the hypothesis can be rejected.

The bullet hole taken into account can not have been shot from the upper starboard deck of the Enrica Lexie and from a distance of 500 meters or shorter.
HYPOTHESIS ABOUT THE ANGLE OF THE HORIZONTAL IMPACT

Above – It is easy with the support of a 3D reconstruction to estimate also the angles of the impact on the horizontal plane.

<table>
<thead>
<tr>
<th>DISTANCE (meters)</th>
<th>ANGLE (° centesimal)</th>
</tr>
</thead>
<tbody>
<tr>
<td>500 mt.</td>
<td>4,75°</td>
</tr>
<tr>
<td>300 mt.</td>
<td>7,01°</td>
</tr>
<tr>
<td>100 mt.</td>
<td>24,91°</td>
</tr>
</tbody>
</table>
VERIFICATION OF THE ANGLE OF THE HORIZONTAL IMPACT

It is a simple rule of plane geometry that in two identical triangles, A and B, and having different sizes the values of the angles are identical.

This rule can be applied to any geometrical figure and in the case we are analyzing figure A1 and B1 represent the back right jamb of the cabin of the fishing boat where we have already seen the bullet entrance and exit holes.

See the image below:

Let's assume that the two L-sides are identical, for this can be found out by visually analyzing the many and diverse images and the structure of the cabin of the fishing boat St Anthony.
It will be possible to verify this when the Indian authorities will make accessible and available the official documents of the dispute settlement procedure, where the data about sizes, angles and positions can not be missing, which the accuse against our marines is based on.

As a matter of fact, in the picture below (from a video of Venad News Agency) we can see not only the bullet exit hole, which is highlighted by the red circle, but also how the Indian authorities carries out their survey on the exhibits concerning the bullet which hit the back roofing of the fishing boat St Anthony.

It is evident that the results of such surveys will be made explicit in a 3D reconstruction, which will be similar to the one I made myself and which will be used during the trial.

In any case, beyond any verification, the results we will get here will indicate macroscopic differences with respect to the values of the angles indicated in the 3D reconstruction I made myself.
Above: - The angle of the impact of the bullet is 46,4° with respect to the longitudinal axis of the fishing boat St Anthony.

Completely different from the three values which were obtained making the 3D reconstruction: 4,75° (500mt), 7,01° (300mt) and 24,91° (100mt).
INTEGRATION OF VALUES ON THE ANGLE VERTICAL AND HORIZONTAL

Above: - The 3D reconstruction allows us to see the difference between the trajectory found on the right back jamb of the cabin of the fishing boat (in red) and the trajectories (in yellow) we could have found in case of fired shots from the top of the Enrica Lexie at a distance of 500 meters (on the top), 300 meters (at the center) and from 100 meters (at the bottom).

The trajectory in red, which was really found, with an horizontal angle of 46,4° with respect to the longitudinal axis of the fishing boat is macroscopically incompatible with the shots fired from the reciprocal positions given the “parallel and opposite” course.

COMPARISONS ON THE ANGLE OF THE HORIZONTAL IMPACT OBSERVED ON THE RIGHT BACK JAMB OF THE ST ANTHONY

The first survey on the St Anthony has already brought to light that the fishing boat has been damaged by a bullet on the back side of the board cover. The hole is a bullet passing hole and could indicate both a shot from the top to the bottom and from the bottom to the top.

In any case, it will be useful in order to verify the value of the angle found on the back right jamb which corresponds to 46,4°.
The first picture of the St Anthony published on the Italian newspaper "Corriere della Sera", in which the bullet hole on the board cover is highlighted.

Above: - An image released by CNN where the same bullet hole is highlighted.
Above: - This image cannot be used to find the angle of the impact because the prospective and the curved board cover distort the angles. As a matter of fact, we know that between abscissa and ordinate the value should be 90° but we measure different angles and variables following the position.

Above: - But in this picture which the cameraman filmed from the bottom to the top allows us to measure an angle of 44.89° with respect to the longitudinal axis of the St Anthony and compatible with the value of 46.4° found on the right back jamb.
CONCLUSIONS ABOUT THE SECTION ON THE "PARALLEL AND OPPOSITE" COURSE

The analysis allows us to support the view that the shots which hit the St Anthony came from sea level with an angle between the shooting subject and the St Anthony of about 45°. This is completely different and incompatible with the possible angles between the Enrica Lexie and the St Anthony in the case of a “parallel and opposite course”.

The hole on the roofing, which at first sight can be considered as coming from the top, has to be analyzed using dimensional exhibits and other objective evidences in order to be able to determine the real angles of impact.

This real angle of impact can be determined using the methods I followed here (3D reconstruction) but only together with accurate dimensional surveys.

ANALYSIS OF THE NAVIGATION "CONVERGENT COURSE AT PROW"

In this case three elements are available:

- the report of the Chief of the anti-pirates protection service Massimiliano Latorre;
- Eyewitness account of the fishermen embarked on the St Anthony and given to The Hindu on 17th February 2012, where they say that they were sailing towards SOUTH;

Above: - We can see that all shots shown till now are on the right side (starboard) of the St Anthony.
Above: - In the case of a convergent course at prow if the fishing boat was sailing towards SOUTH and the Enrica Lexie towards 330° the angle of divergence between the two courses was 30°.

Above: - In the enlargement one can see that in the reciprocal positions the St Anthony would always show the left side, while the shots are on the right side.

It is also necessary to note that a divergence of only 2° (in comparison with 30° in the case of sailing towards SOUTH) is enough to make impossible that one from the Enrica Lexie can hit the right side.

**CONCLUSIONS FOR THE ANALYSIS OF THE NAVIGATION "ON A COLLISION COURSE AT PROW"**

What was reported here leads us to conclude the complete incompatibility with the shots from the Enrica Lexie, because the shots seem to be on the side opposite to the one where they really are.
CONCLUSIONS

The analysis of the angles of the impact of the bullets we got by integrating the possible reciprocal courses of the Enrica Lexie and of the approaching vessel, and considering the traces of the bullets found on the fishing boat St Anthony leads us to exclude with reasonable certainty that the found shots on the fishing boat come from the oil tanker Enrica Lexie.

The reasons are evident: the complete incompatibility of the shooting angles and corresponding angles of impact.

If the radar data of the Enrica Lexie were available they could be integrated as third element into our survey together with the reciprocal positions and the traces on the fishing boat and I could use them to carry out a technical analysis having probative force and tending to prove the matter at issue.

I also would like to put into evidence that in each analysis I carried out in this survey (negligence in the investigation towards other alleged culprits, investigative acts that cannot be repeated, Piroli report) and this document all the available elements one can collect confirm the circumstantial evidences in favor of the defense, while no element in favor of the prosecution has emerged so far.

According to my own experience in the field of technical analysis with probative force I consider to be impossible that against the accuses formulated so far only on the basis of moody eyewitness accounts, not verifiable considering objective elements, some elements in favor of the prosecution will be found. On the contrary, one can find only elements in favor of the defense.

Even if one wants to consider the evidences analyzed so far as having circumstantial validity one comes to the conclusion that the evidentiary process does exist and can lead to pass judgment if the amount of presented evidences represents for the prosecution or for the defense a frame leading to conclusions “beyond any reasonable doubt”.

In this case I believe I can affirm that the evidences in favor of the defense prevail on the evidences in favor of the prosecution.

- The undersigned requests that if in the described events and fact criminal offences of whatever nature and committed by whatever party are recognized, the culprits will be prosecuted;

- The undersigned remains at disposal of the Bench for any further explanation or necessary information;

- The undersigned requests to be informed if this exposé is filed.

Roma, 23rd April 2012

Respectfully

Luigi Di Stefano
THE CASE OF THE ENRICA LEXIE: ANALYSIS OF THE PIROLI REPORT

ATTACHED DOCUMENT TO THE DOCUMENT N. 051695
(registered at the Public Prosecutor’s Office on 13th March 2013)

OBJECT: Technical analysis and observations about the case of the oil tanker Enrica Lexie and of the two Italian marines Massimiliano Latorre and Salvatore Girone jailed in India and accused of the murder of two persons.
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THE PIROLI REPORT

PREMISE

On 6th and 7th April 2013 the Italian newspaper La Repubblica exclusively published a summary of the report written by the rear admiral Alessandro Piroli, a thumbnail survey about the case of the Italian marines Latorre and Girone accused of the murder of two fishermen embarked on the fishing boat St Anthony and dated on 11th May 2012.

From the article published in La Repubblica on 6th April (Piroli report):

"For the sake of completeness I will summarize the results and conclusions of the Indian authorities (...). 4 bullets were analyzed: 2 of them were found on the fishing boat and 2 of them in the bodies of the victims. It was reported that the firearms correspond to the 5,56 NATO bore manufactured in Italy. The bullet found in the body of Valentine Jelestine was fired from the rifle with the identification number corresponding to the marine Andronico. The bullet found in the body of Ajiesh Pink was fired from the rifle with the identification number corresponding to the marine Voglino".

[...]

"If the results of the Indian tests are confirmed or if, as a consequence of further investigations acknowledged also by the Italian party, the authorities will prove that the bullets belong to the Italian marines, then the competent judiciary should find out if the fire was open with the purpose of firing warning shots into the water, which wrongly or accidentally hit the fishing boat, or if it was fired on the fishing boat with intent."

Some elements contained in the article of the newspaper, which reported to have one unabridged copy of the Piroli report, are very interesting from the point of view of a technical analysis because they allow to identify some objective elements which can have probative force and which can shed light on important details of the whole case. Some examples in the following:

4 bullets manufactured in Italy were found and analyzed by the Indian authorities; they were fired from two different rifles corresponding to two of the 6 rifles belonging to the Italian marines, which according to the corresponding identification number correspond to the rifles of the marine Massimo Andronico and the marine Renato Voglino; each rifle shot and hit in the same way: one bullet on the fishing boat and the other one in the body of one of the victims.

Such evidences exclude the hypothesis that one of the marines shot dead two persons intentionally or by mistake. It is clear that there were two victims and hence there are two culprits.

This remark is in line with what the Indian Police in Kerala reported. The Indian authorities intuitively and before getting the ballistic expertise arrested not one but both marines considered to be the ones who had opened fire.
Another interesting point is the fact that according to the authorities in Kerala the rifles from which the bullets against the fishing boat and against the fishermen were fired are not the ones belonging to Latorre and Girone, who have always declared that they were the only ones who opened fire (into the air first, and then into the water). Rather, according to the identification numbers the rifles belong to two other members of the detachment embarked on anti-pirates protection service on the Enrica Lexie.

The Piroli report is the first official document in which for the first time the hypothesis that other two members of the detachment could be the ones who opened fire and not Latorre and Girone, as it was indicated in all official documents and statements so far, is formulated.

The detachment the six marines were part of was equipped with individual firearms (six Beretta assault rifles “SC 70/90”) and two FN Minimì light machine guns, having a 5.56 x 45 NATO bore and standard cartridges (Fiocchi manufacturer) and tracer (SMI manufacturer) manufactured in Italy.

In other words, the Piroli report released by the influent newspaper shows once again the public opinion the results of the Indian ballistic expertise, also broadcasted by RAI news last year on 14th April 2012.

At the same time it proposes novel elements which allow to formulate many and diverse hypotheses about the case, which are to be considered.
Error or Intentionality:

ERROR

Let's consider the hypothesis according to which one of the two arrested marines is guilty.

During the anti-pirates operation some of the fired warning shots fired into the water from the oil tanker could have hit by mistake the fishing boat and the marine did not become aware of it.

We can set up a hypothesis of manslaughter (in the case of a failure of the used firearm or of the cartridge) or of unintentional murder (in the case of warning shots which hit the target accidentally). This is an acceptable hypothesis, even if a tragic and fatal one.

On the other hand, it is not credible that both of them are guilty because of exactly the same error in shooting:

- because of shots fired from a distance of 500 and 100 meters. This shooting distance and the natural shot dispersion make the trajectory of the shots against a target uncertain;

- because of the shots fired from a moving target (the oil tanker Enrica Lexie while navigating) against a moving target (the small boat which was approaching) made unstable by the ocean waves.

The case in which both marines make the same mistake and get the same result hitting with one bullet the fishing boat and with one bullet one of the fishermen is impossible.

Admitting that under those conditions both of them made the same mistake and got the same results is like winning twice in succession at bingo playing the same lottery numbers.

This has never happened.

INTENTIONALITY

Let's admit now for a moment reputedly that one or both of our marines shot with the purpose of hitting the target.

According to the eyeswitnes accounts by the fishermen who had survived the attack, one of the victims was in the steering cabin (he had taken the helm) and the owner of the boat (Mr Freddy) layed on the floor.

Outside the steering cabin the other nine fishermen were sleeping and laying down on the upper deck of the fishing boat (point A).

In this position the sides of the vessel represent a good shelter from shots coming from
a horizontal trajectory, while shots coming from a vertical trajectory are in this case lethal.

On the deck of the oil tanker (point B) at about 23 m above sea level (like on the roof of a 7 m high building) stand two marines, good trained, expert gunmen.

They were equipped with different cartridge. Each cartridge had 30 bullets. The marines took aim with rifles which fire 670 shots in a minute/more than 11 shots in a second.

On the same side of the vessel their alleged target was approaching at 60-100 m.

Under these circumstances, if one of them or both of them had opened fire against the fishing boat with the purpose of hitting the 11 fishermen of the crew, they would have surely killed the whole crew of the fishing boat.

These are the reasons why in my opinion the intentionality is a hypothesis that can be excluded.

It is worth remembering that:

Even if the Indian authorities mention shots fired following a trajectory from the top, on the St Anthony the only fishermen shot dead are the ones who during the alleged shooting were in the cabin. The ones lying down on the upper deck were not hit and survived.

On board of the Enrica Lexie there were not only the marines, but also the crew of the oil tanker, which saw the whole operation. Most of them have the Indian citizenship. None of them saw any bullet hitting the boat. On the contrary. Let's listen now to the interview of Antonio Iovane to the captain Carlo Noviello, who worked on the oil tanker and gave an eyewitness account.


The rifles of the marines

With reference to the Piroli report it is surprising that only one year after the incident the possible relevant role of other marines, who were part of the detachment, in the incident is mentioned.

In this case too we can formulate different hypothesis:

**HYPOTHESIS 1: THE RIFLES MISTAKEN FOR THE OWN ONES**

With reference to what was released in the newspaper la Repubblica the most credible hypothesis is that the marines mistook the rifles of their colleagues for the own rifles unintentionally.

Two scenarios are possible:
(A) the rifles were in their arm-rack and used at random independently of their identification number at the moment of the operation;

(B) only in that case, because of the alarm and the agitation of the moment, each marine took a rifle at random, without verifying the own identification number.

**HYPOTHESIS 1.1 – RIFLES USED AT RANDOM**

The first hypothesis is hardly to be proved.

- **The formal attribution** of the firearm to a soldier has as a consequence not only that it has to be used only by the marine whose ID corresponds to the identification number of the firearm, but also that the marine is responsible of its care;

- **The legal implications** of the use of a firearm assigned to another soldier are clear both in the army and in the police. It is sure that also the detachment on board of the Enrica Lexie was well aware of them;

- **The good working conditions** of the individual firearms. Every soldier has to keep and take care of the own firearm by servicing and cleaning the sight according to the individual needs;

- **The training and drilling procedure** of the soldiers and marines includes practicing shooting (also while navigating). They have to make a statement of accounts after the training. They have to write a report in which they have to indicate date, time, place, number of fired shots, kind of fired shots. In this way each marine can get other cartridges;

- **The operation procedure.** What was said above about the training procedure is very important in the case we are analyzing, which is a real one. The use of the firearms has to be justified and explained by indicating the used firearm, the fired shots, and every detail which is useful for further investigations. This is a compulsory procedure for the detachment on board, the members of which have also the function of police officers.
These elements lead to exclude the hypothesis of the arms of the colleagues mistaken for their own arms.

**HYPOTHESIS 1.2 – THE AGITATION OF THE MOMENT**

We have to examine now just another possibility, the hypothesis of agitation.

Actually, **the approaching vessel was detected by the on board radar of the Enrica Lexie when it was at about 2.8 NM (about 5km) away from the tanker, when the approaching vessel could be seen by sight.**

In the Piroli report released by La Repubblica we can read that the warning signals were carried out (light signal, showing the arms, ...) when the approaching vessel was at about 800 m away from the tanker.

If we take into account the average speed of a fishing boat like the St Anthony, which can sail at about 8/10 max. kts. (according to the Indian Coast Guard) covering hence a distance of about 300m in a minute, it follows that from the moment of the sighting at 5km to the moment when the signals were carried out at 800m away from the vessel, 14 minutes elapsed; another minute was needed (from 800 to 500 m) before the fist warning shots were fired (warning shots into the water).

**From the moment in which the on board radar picked up the vessel on and for about 15 minutes till the warning shots were fired the approaching vessel was kept under observation and the marines had enough time to prepare the operation according to the procedure**, and hence they had also enough time to take aim with their own arm.

I daresay that also **the agitation** can be excluded.

**HYPOTHESIS 1- CONCLUSIONS**

The whole hypothesis of the firearms of the colleagues mistaken for the own on board of the Enrica Lexie can be excluded. It can just be considered as a mere supposition and till further proofs.

**HYPOTHESIS 2 – A MISTAKE IN THE IDENTIFICATION OF THE IDENTIFICATION NUMBER OF THE RIFLES DURING THE INDIAN SHOOTING TESTS AND THE BALLISTIC EXPERTISE.**

In other words, the Indian authorities made a transcription error. They mistook the identification number of the rifles while carrying out the shooting tests.

**HYPOTHESIS 2 - CONCLUSIONS**

This hypothesis can be excluded, because as we will see it is likely that the Indian authorities did not know the identification numbers of the rifles corresponding to the six Italian marines. It can just be considered as a mere supposition and till further proofs.
HYPOTHESIS 3 – THE ATTRIBUTION IS RIGHT AND THE FOUND BULLETS WERE FIRED FROM THE RIFLES OF VOGLINO AND ANDRONICO.

Also in the case of this hypothesis we have to take into account different possibilities:

(A) The Indian authorities did not know that the identification numbers of the rifles from which the shots were fired belong to the rifles of Andronico and Voglino

(B) They did

HYPOTHESIS 3.1 – THE INDIAN AUTHORITIES DID NOT KNOW THAT THE IDENTIFICATION NUMBERS OF THE RIFLES

Analyzing case A is less complicated.

If they did not know the single correspondence between the identification numbers of the firearms and of the different members of the detachment on board, the Indian authorities suppose that the two rifles from which the shots were fired belong to Latorre and Girone, for they admitted to have been the ones who had opened fire.

They did find the bullets of two rifles and hence they took for granted that they had two quasi confessed criminals. The Indian authorities were led to think that the culprits are Latorre and Girone. They charged them with murder and they arrested them awaiting trial.

HYPOTHESIS 3.2 – THE INDIAN AUTHORITIES DID KNOW

The analysis of case B is more complicated.

It is worth remarking here that on 30th March 2012 some police officers of Kochi got back on board of the Enrica Lexie in order to interrogate the other marines on board (Antonio Fontana, Alessandro Conte, Renato Voglino e Massimo Andronico) in the presence of the Italian consul general Giampaolo Cutillo and with the help of a questionnaire containing 15 questions. The 4 marines on board were asked details about the identification numbers and the description of the firearms they were equipped with.

It is evident that if the Indian authorities had known about the single individual identification numbers of the seized firearms they would have had the proof that Andronico and Voglino had opened fire and they would have charged them with murder when the Enrica Lexie was in the port of Kochi. Actually, under these premises they could clear Latorre and Girone of the charge of murder. They could just be charged with false statements in the first part of the investigations.

There were no reasons to charge Latorre and Girone if the Indian authorities were aware of the identification numbers of the firearms. They would not have lied to their superiors and to the public opinion.

And they had not risked to charge with murder two innocent persons and create the situation in which during or after the trial the two culprits or the other two members of the detachment could reveal the circumstances.

Also Indian sources had had the possibility to reveal such a lie, as many persons took part in the ballistic expertise in different roles.
HYPOTHESIS 3 – CONCLUSIONS:

The hypothesis according to which the Indian authorities did not know about the attributions of the identification numbers of the rifles to the single marines is credible. If they knew about the identification numbers they could charge Andronico and Voglino with this murder.

The Piroli report leads one to the conclusion that the Italian authorities did know the attribution of the identification numbers of the rifles. This may have some consequences we can not analyze here.
HYPOTHESIS 4 – THE INDIAN AUTHORITIES IN KERALA MANUFACTURED FALSE EVIDENCES AGAINST THE TWO MARINES

This is a very harsh hypothesis, but in a technical analysis it needs to be considered, especially if it is true that the authorities in Kerala did not know about the identification numbers of the rifles.

It is obvious that if Latorre and Girone admitted to have shot, the bullets which hit fishermen and fishing boat must have been fired from their rifles.

But what are the rifles of Girone and Latorre?

According to the Indian authorities two of the six rifles were seized from the Enrica Lexie because they do not know the single attributions of the identification numbers of the rifles.

In order to find out which ones of the six rifles are the ones from which the shots were fired they carried out the shooting tests.

They fired one or more shots into the water in a basin using the six Beretta rifles and some ballistic gelatine to recover the bullets afterwards.

The bullets can be recovered and analyzed under the microscope together with the bullets found in the bodies of the victims and on the fishing boat in order to find out if the rifling on the bullets matches with the rifling on the bullets they had recovered.

In special cases when the bullets are destroyed (as in the case of our 5.56 NATO bore) it is necessary to carry out more sophisticated chemical analyses using a mass spectrometer in order to find out the correspondence of the alloy (copper, lead, steel) and of the composition of other elements such as gunpowder.

Analysis with the use of a spectrometer: the particles which compose a trace of green paint left by a shot which hit a tactical waistcoat correspond to the ones used to color the point of a bullet seized from the alleged culprit.
The splintering of the cartridge 5.56 NATO bore at the moment of the impact is not a remote possibility.

The next picture shows under x-ray gaze on the left the results of different shooting tests on varying of the impact speed and hence of the distance and on the right the dispersion of the metal fragments of the bullet after the impact on the soft tissues of the human body.

In case of fragmentation it should be compatible with the features of the firearms, with the type of cartridge, the shooting distance, the kind of target and other elements.

All this to explain how during complicated forensic technical analyses it is not enough to find out the mere correspondence of the bullets if other elements are not in line with the hypothesis to be followed during the investigation and to be proved.

Only the results of the comparisons between the bullets recovered after the shooting tests and the ones recovered from the bodies of the victims by the Police of Kerala and on the fishing boat will make possible to find out from what rifles the shots were fired.

The exclusion of the Italian experts from carrying out the ballistic expertise.

Before carrying on with our observations, it is necessary to highlight and stress the fact that Major Luca Flebus and Major Paolo Fratini, the two ballistic experts of the RIS Carabinieri, who were sent to Kerala in order to take part together with the Indian authorities in the ballistic analysis, which was thought to have to be carried out in cooperation, were admitted to take part in the survey just as external observers and only during the shooting tests. (This was confirmed by many and diverse serious sources).

The fact that they were present when the shooting tests were carried out plays no role in terms of control over the reliability of the results of the ballistic expertise and of the investigations altogether.

The decision not to admit the two officers of the Carabinieri to take part in the shooting tests and in the comparisons of the results of the test give a bad impression about the reliability of the survey and about how in India the authorities manufacture and deal with evidences against our marines.
At this point the question we have to ask is the following one:

**With what exactly were the bullets of the rifles compared**, which allowed to say that the shots that killed were fired from the rifles of Andronico e Voglino?

**I have no answer**, but some suspicions I have already formulated elsewhere.

The diffusion of the report written by Admiral Piroli, who surely did his best in drawing up the report, just boosts the huge amount of declarations of the authorities who speak only of probability and compatibility, it boosts the huge amount of declarations, of the TV reports of Keralian politicians who promise an exemplar sentence based on incontrovertible evidences against the two marines, of the unconfirmed press reports about more or less confidential documents.

The fact that the investigation is going on within a frame of honesty and of openness is considered to be guaranteed by the mere presence of the Italian experts of the Carabinieri in the first phase of the technical survey. But it is always omitted that the Italian experts of the Carabinieri were excluded from decision-making, they had no role in carrying out the technical survey and went back to Italy before the end of the analyses they were not allowed to contribute to.

More than one year after the incident, and after the conclusion of the investigation no evidence having probative force, no uncontroversial technical element has been released and presented to the public opinion (autopsy, exhibits, technical surveys, eyewitness accounts).

**Why do the Indian authorities say they have evidences without showing them?**

During the trial the evidences against the marines have to be shown and the defense has the right to let them analyze by the own technical experts. In order to be able to do this they need to have access to the trial acts and the authority to carry out new analysis without destroying or damaging the exhibits.

This hypothesis has a legal foundation and does not need any further proof. The following observations support this hypothesis:

- the authorities in Kerala had two confessed criminals to be charged with murder;
- they needed the evidences that the Italian marines had killed and that each of them had killed one man;
- the marines were equipped with six rifles, the Indian authorities did not know that the rifles had identification numbers;
- they seized two rifles and manufactured the evidences against two persons, for they were convinced that the rifles were on a arm-rack and that they were spread...
and then taken at random, which is quite normal in many armies all over the world;

- the Indian authorities were so short-minded that they took for granted that the two marines made exactly the same mistake and got the same result;
- the whole dispute settlement procedure collapses in the light of the fact that the Indian authorities in Kerala charged Latorre and Giroen with murder, even if they knew that the shots were fired from Andronico's and Voglino's rifles.

(...)

There are other technical and procedural elements which support the mentioned hypothesis, but it is not appropriate to talk about them here. They can be illustrated later on.

**SUMMARY OF THE RELEVANT STEPS WHICH CHARACTERIZE THE CASE OF THE INDIAN BALLISTIC EXPERTISE:**

<table>
<thead>
<tr>
<th>Date</th>
<th>Event Description</th>
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| 26th Feb 12| **SEIZURE OF THE FIREARMS**
At the end of the second day of search on board of the Enrica Lexie the police of Kerala seized four cases which contained the firearms the Italian marines were equipped with. They are now in the hands of the Indian police in Kerala. |
| 04th Mar 12| **DIFFERENT BORE**
The press released the report of Prof. K. Sasikala, who carried out the autopsy of the victims. In his report he describes the bullets recovered from the bodies of the victims. The measures are not compatible with the bullets the Italian marines were equipped with. Rather, they seem to correspond to a Russian 7.62 bore. |
| 04th Apr 12| **A MISSING FIREARM**
According to the Times of India the authorities believe that one of the firearms of the marines is missing and has not been seized yet - the firearm used by one of the marines is not among the 7 firearms seized from the Enrica Lexie. In this way they justify the incongruity which arose during the shooting tests carried out on the firearms seized from the Italian oil tanker and on the bullets recovered from the bodies of the killed fishermen. The public opinion came to know that on 30th March 2012 the police got back on board of the tanker in order to interrogate the other 4 marines on board. They had to answer some questions about the identification numbers and the description of the firearms the detachment was equipped with. |
| 10th Apr 12| **THE NON EXISTING ARM**
In a report which the FSL (Forensic Science Laboratory) gave to the Indian judiciary and to the chief of police carrying out the investigations it is asserted
that the shots were fired from two Beretta rifles ARX-160. This is an experimental rifle which the marines on the Enrica Lexie were not equipped with.

The ARX 160 is a firearm with a specific feature. If it used with a normal 5.56 NATO bore a quick change of the bore is possible. Its quick-change barrel allows to shoot cartridges with a 7.62 bore (the cartridges of the Russian kalashnikov, not the NATO ones). We have already mentioned the Russian bore above.

THE FALSE EXPERTISE

A RAI correspondent in New Delhi came into possession of the so called Indian ballistic expertise, a 36 pages long document, and the RAI presented it as if it was a real scoop and broadcasted some excerpts showing them in some national newscasts. Actually, what was shown is a long list of exhibits. The comments on them are just banality and obviousness, for example what is said about "the results of the tests". The journalist says: "under point 3 of the expertise it is mentioned that the tracer ammunitions and the ordnance ammunitions correspond to a 5.56 NATO bore, manufactured in Italy" Does one need a shooting test for this? The Indian ballistic expertise has been considered to be unreliable by many experts. Analyzing the broadcasted excerpts I could observe many revisions which seem to be falsifications. This has never been denied by official sources.
THE MISTAKEN FIREARMS

Admiral Piroli wrote down a report in India (confidential for almost one year) in which he reports among other things for the sake of completeness the conclusions of the ballistic expertise, he puts into focus the conclusions of the Indian authorities distancing himself from them:

"If the results of the Indian tests are confirmed or if, as a consequence of further investigations acknowledged also by the Italian party, the authorities will prove that the bullets belong to the Italian marines, then the competent judiciary should find out if the fire was open with the purpose of firing warning shots into the water which wrongly or accidentally hit the fishing boat or if it was fired on the fishing boat with intent."

The Indian ballistic expertise confirms that the quite plausible result, which in judicial terms means nothing at all, becomes certainty and hence a guilty verdict: The Italian marines hit the St Anthony and its crew; it also precisely indicates from which rifles the shots were fired: from the mistaken ones.

(*) the former Italian foreign minister G. Terzi in the TV program IN ONDA (La7) on 6th April 2013 gave an interview about the Piroli report: He said: "It has never reached my desk". In this way he revealed interesting behind-the-scene activities about the construction of the Indian ballistic expertise.
CONCLUSIONS:

A simple analysis of the known steps of the case based on the Piroli report leads us to conclude that the hypothesis of a falsification of the evidences against the marines has the upper hand on the other hypothesis and has to be verified.

It is based on the fact that the Indian authorities in Kerala did not know the single and individual identification numbers of the firearms. Otherwise they would have cleared Latorre and Girone of all charges and they would have charged Andronico and Voglino.

Hence, no Bench can convict Latorre and Girone considering these evidences tending to prove their innocence.

The Indian authorities affirmed that the bullets recovered from the bodies of the fishermen and on the fishing boat St Anthony were fired from the firearms Andronico and Voglino were equipped with.

Once again, we have to remark that the responsibility for the impossibility to verify the existence and reliability of the so called evidences against Latorre and Girone is of the Indian authorities in Kerala, which repeatedly concealed relevant exhibits, as for example in the case of the lack of care in keeping the fishing boat St Anthony and as the sinking of the boat shows. I reported this concealment of relevant facts and exhibits in the exposé for the Public Prosecutor’s Office in Rome on 13th March 2013.

The Piroli report, in which the hypothesis of the mistaken rifles is formulated, is another element against the reliability of the Indian technical survey and of the ballistic expertise and of the whole dispute settlement procedure (which has been considered to be invalid also by the Indian Public Prosecutor’s Office, which put the investigations in the hand of another national Agency).

Of course, if carrying out new investigations for the Indian authorities means just the transcription of the investigations carried out in Kerala the investigation can go no step further.

On the other hand, if the hypothesis that the Indian authorities were aware of the identification numbers of the rifles and that also the Italian authorities were aware of this
fact should be proved wrong, a more serious hypothesis than the one of the mala fides of the authorities could be formulated, as each reader can easily figure out.

This possible hypothesis is so serious that it can not be considered in a technical analysis.

- The undersigned requests that if in the described events and fact criminal offences of whatever nature and committed by whatever party are recognized, the culprits will be prosecuted;
- The undersigned remains at disposal of the Bench for any further explanation or necessary information;
- The undersigned requests to be informed if this exposé is filed.

Roma, 23rd April 2012

Respectfully
Luigi Di Stefano
To the
Public Prosecutor's Office Rome
Piazzale Clodio n. 12
00195 Roma

For the attention of:

- Giancarlo Capaldo, attorney general
- Elisabetta Cennicola, public prosecutor

THE CASE OF THE ENRICA LEXIE:
TECHNICAL ANALYSIS
ANALYSIS OF THE POSITIONS

ATTACHED DOCUMENT TO THE DOCUMENT N. 051695
(registered at the Public Prosecutor's Office on 13th March 2013)

OBJECT: Technical analysis and observations about the case of the oil tanker Enrica Lexie and of the two Italian marines Massimiliano Latorre and Salvatore Girone jailed in India and accused of the murder of two persons.
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ANALYSIS OF THE POSITIONS

PREMISE

In the analysis of the events occurred on 15th February 2012 off the coast of the Indian State of Kerala it is particularly important to find out the real position of the two vessels involved in the incident at the moment of the events:

the Italian ship Enrica Lexie, a 58,000 tons heavy oil tanker navigating from Singapore to Egypt;

the 12 meter long Indian fishing boat St Anthony, which set out from Neendakara (Kollam) on 7th February to go on a tuna fishing expedition.

Before going into the details and analyzing the eyewitness accounts necessary to analyze the reciprocal positions and drawing on them to formulate observations leading to investigative elements let me draw your attention to some considerations necessary to better contextualize the circumstances of the events:

(1) The fishing boat St Anthony has turned out not to be in the national shipping register (in violation of the Indian Merchant Shipping Act of 1958);

(2) all journalistic and judicial versions do agree: the events occurred outside territorial waters (at more than 12 NM);

(3) In April 2011 the west coast of India has been declared by Sea International Organizations HRA (High Risk Area);

(4) The St Anthony was navigating without showing any flag.

(source: Supreme Court Of India - Sentence 20370/12 of 18th January 2013 )

Other details about the incident can be read in the article released on the website of Deccan Chronicle on 28th April 2012, in which the owner of the St Anthony in his eyewitness account reveals:
"The fishing boat was running at a high speed and was dangerously approaching another vessel," Freddie said in the agreement adding that one of the victim Jelestine, was navigating the fishing boat or rather sleeping at the helm, as he was fishing the whole night, and did nothing to avoid other vessel that had come close. - aggiungendo - “Freddie was shocked to see Jelestine on the driving seat as he did not have a licence and the person who had licence was sleeping."


... THAT THE FISHING BOAT, [WHICH WAS NAVIGATING IN INTERNATIONAL WATERS IN A HIGH RISK AREA FOR PIRATE ATTACKS WITHOUT SHOWING ANY FLAGS] WAS APPROACHING IN A MANNER CONSIDERED TO BE AGGRESSIVE A SHIP AND THAT ITS HELMSMAN WAS ABLE NEITHER TO SAIL NOR TO REACT TO ANY SIGNALS, SUPPOSING THAT HE WAS ABLE TO RECOGNIZE THEM, FOR HE HAD NO SAILING LICENSE AND FOR HE FELT ASLEEP AT THE HELM.

After having been hit by numerous shots, on the fishing boat there were two men shot dead. When the owner of the St Anthony decided to give the alarm he did not call by phone the police station and did not alert by radio the Coast Guard:

... he called on the phone his friend Prabhu (in Kayamkulam) and asked him if he could call the authorities.
POSITION OF THE OIL TANKER ENRICA LEXIE AT THE MOMENT OF THE EVENTS

The position of the Enrica Lexie at the moment of the incident seems to be well-defined and ascertained both by the Italian and the Indian party.

Above: The “position fixing”, the precise geographical position of the incident the Enrica Lexie was involved in, as it was indicated by Chief Latorre in the report of the detachment sent immediately after the incident:

09° 17.02’ Nord – 076° 01.80’ Est.

The first part of the Vitelli report sent by the captain of the Enrica Lexie to the own fit out company which contains a summary of the incident and the coordinates:

09° 17.02’ Nord – 076° 01.80’ Est.

The position is the same and in both reports it is indicated that they were at 20, 5 NM off the coast of Allepey. The locality of Allepey mentioned in the Latorre and Vitelli report corresponds on the map to the town of Alappuzha, Kerala, India.
2. While the aforesaid vessel, with the Military Protection Detachment on board, was heading for Djibouti on 15th February, 2012, it came across an Indian fishing vessel, St. Antony, which it allegedly mistook to be a pirate vessel, at a distance of about 20.5 nautical miles from the Indian sea coast off the State of Kerala, and on account of firing from the Italian vessel, two persons in the Indian fishing vessel were killed. After the said incident, the Italian vessel continued on its scheduled course to Djibouti.

Above: excerpt from the sentence of the Supreme Court of India in which it is stated that the incident occurred at 20, 5 NM off the coast of Kerala.

On the left: the position of the Enrica Lexie at 16:00 local time on 12th February 2012.

The yellow line represents the distance from the coast: 20.5 NM;

Note: it is possible to repeat the analysis and verify the accuracy of the data by using the free application Google Earth.
Conclusion:

There is no doubt about the real position of the Enrica Lexie at the moment of the event.

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It is necessary to remark here a shortcoming in the sentence of the Supreme Court of India with reference to the position of the Enrica Lexie at the moment of the events. As a matter of fact, it is indicated in a general way “20,5 nautical miles from the Indian sea coast off the State of Kerala”.

This means that any point at 20,50 NM off the coast of Kerala is valid to define the geographical point or location where the events occurred.

And hence we have an unlimited number of points on a line copying the coast of Kerala at 20, 50 NM towards the west.

It is evident that it exists "only one point" where the incident occurred, which has to be defined using geographical coordinates, what both Chief Latorre and master Vitelli did.

Otherwise, we lack a definition of "place of the incident", which according to the Supreme Court of India could have occurred anywhere at 20,5 NM off the coast of Kerala.

**POSITIONS OF THE FISHING BOAT ST ANTHONY ACCORDING TO THE EYEWITNESS ACCOUNTS BY THE MEMBERS OF ITS CREW**

**Introductory Observations**

It is evident that still in the first statements given to the Indian authorities the witnesses embarked on the fishing boat had to say where they were at the moment of the facts.

And hence the further public declarations can not correspond to all the ones given to the authorities.

Further different statements should have led the authorities to ask for clarifications in order to fix the real position of the fishing boat. If the authorities just take cognizance of the different positions the witness becomes completely unreliable for any court.
One can not think that the master-owner of the St Anthony did not know where he was and that he was not able to make the "position fixing", because without position fixing simply he could not lay up for any port.

Sailing toward the east and having the coast within sight considering a reference point useful enough for following a course or sailing home along the Indian subcontinent... A romantic hypothesis, but unacceptable considering the diffusion of the GPS technologies.

These are available via each smart phone or in a car. Is it credible that a vessel designed for navigating in international waters lacked them? Time and fuel cost in Kerala too.

It is likely that the master was equipped with a GPS receiver with which he could fix in meters the own position just pushing on a button and recording the geographical coordinates of the point where he was at the moment of the incident.

And he could hence report both to the police and in the further declarations the exact point where the shooting occurred.

Professional GPS systems for sailing are available at reasonable prices, e.g. 20,700 rupees (less than 290 €) accessories included (source: Ebay India).

If the master of the St Anthony did not know where he was and as he was on the high seas and had the line of the sea on the horizon he could not have sailed to Neendakara where he arrived at 23.15 local time (source: Indian Coast Guard).

**ST.ANTONY POSITION N. 1 – INTERVIEW TO THE HINDU OF 17TH FEBRUARY 2012**

The first interview I am aware of was given to The Hindu on 17th February 2012 (attached document 1 and attached document 2).

The article reports the statements of Mr Clemens, the senior fisherman embarked on the St Anthony, which were confirmed by Mr Freddy, master and owner of the fishing boat.
Above: - In this passage Mr Clemens claims that they were at 14 miles off the coast of the town of Alappuzha (Allepey), on Wednesday afternoon (the day of the shooting), but in that point the catch was poor and they decided to sail to another fishing area, 40 NM south.

The fact that we could establish range on a mobile phone showed that we were well within territorial waters, he said. He soon informed the crew of an associate fishing boat about the development and they in turn informed the Coast Guard. Freddy said the ship from which they were fired was not sailing in the prescribed shipping channel but beyond east of the channel.

Above: In this passage an objective description of the events is provided: the fact that the cell phones did have range shows that the fishing boat was near territorial waters.

Mr Freddy confirms the declaration of Mr Clemens, saying that the vessel from which the shots came was not in the prescribed shipping channel (the usual mercantile course?), but east, hence towards the coast, near Indian territorial waters.

This first declarations about the position of the St Anthony near territorial waters proven by the fact that they were in a zone with mobile phone coverage is very important.
• It can be controlled later on, both verifying that in that point there is really mobile phone coverage and analyzing the mobile phones recorded by the corresponding cell: the ones belonging to the fishermen and the ones used on board of the ship involved in the shooting. These are quite normal routine controls.

The other element to be verified is the geographical borders of the channel the witness refers to and which channel exactly it is.

According to this declaration it is evident that one can observe a certain degree of incompatibility between the reciprocal positions: the St Anthony is at the moment of the incident at 12 NM (almost 20 km) away from the Enrica Lexie.

**Conclusion:**

The eyewitness account released by The Hindu on 17th February seems to be credible and the fishermen offer elements of validation of the hypothesis that they were near territorial waters. This is what they want to show.

Moreover, it is evident that they had no GPS system on board, otherwise they had provided the authorities with precise geographical coordinates.

**St Anthony Position n.2 – Interview to the Deccan Chronicle of 3rd March 2012**

In this interview only the master-owner Mr Freddy Bosco answers to the questions.

There was no premonition of the tragedy on the morning of February 15. Our boat cruised the blue water, the weather was fine and the day looked perfect for a big catch. Our boat, St. Antony, was off Cherthala coast, some 35 km south of Kochi. It was the eighth day since we first set out from Kollam Neendakara Port. We were all exhausted, especially because we could not lay our hands on anything. We then decided to head back to Kollam, anticipating a good haul.

Above – In this passage Mr. Freddy is not at 14NM off the coast as he had affirmed on 17th February, but generally speaking on the high seas, off the coast of Cherthala and about 35 km south of Kochi.

In the evening, at around 4 pm, I asked Jelestine to take charge, as I was literally dozing off. I parked myself just behind his seat and fell asleep in no time, only to be woken up by gunshots. I looked around and saw Jelestine bending forward, hunched on the steering wheel. I thought he too had dozed off. But soon, I found blood oozing from his ears and nose. I tried to shout him back to life, but he was gone. My screams got dissolved in the gunfire shots that continued for a couple of minutes.

Above: - In this passage he indicates the time in which the event occurred, at about 4pm, at 16.
Within a span of a few minutes, everything had changed for us. Fearing another round of gunfire, we turned back. We had no time to spare a few moments to grieve the death of our colleagues. With no other boat in the vicinity, there was just no one around to seek help from. I used the VHS wireless set and informed Prabhu, a boat owner friend who was at Kayamkulam at that time, to alert Neendakara port authorities and the Coast Guard about the incident.

Above: - in this passage he says he called by radio (probably a nautical VHS system) a Prabhu who was on a vessel at Kayamkulam at that moment in order to alert the authorities in the port and the Coast Guard.
When our boat touched base at Neendakara port in Kollam, there were thousands waiting anxiously to catch a glimpse of the victims and to hear the tragic story. Till then we had no idea that the firing took place from an Italian ship and that the villains were two Italian Navy marines Latorre Massimiliano and Salvatore Girone.

Above: in this passage he says that at the moment of the arrival in the port he had no idea that the shots came from an Italian vessel and that the villains were Latorre and Girone.

Observations about the interview of the Deccan Chronicle of 3rd March 2012

It is interesting, also to provide the Bench with investigative ideas, to conduct a close examination of this eyewitness account given on 3rd March 2012 to the Deccan Chronicle.

- Clear discrepancy with what was declared on 17th February. Not at 14 NM off the coast of Alappuzha, but on the high seas off Chertala. The witness seems to be unreliable.

- 35 km south of Kochi, on high seas off Chertala, at 16.

Above: the first press release of the Italian Marine of 15th February (the day of the shooting) indicates the position at 30NM west off the Indian coast.
This wrong position, which was repeated in the national media, fueled the first argument in the Indian press, which from the very first moment reported that the Enrica Lexie was in territorial waters, which was supported by the statements of the Indian fishermen like the one of 17th February cited above.

On 20th February the website AsiaNews, understood as religion-driven, interviews a priest who had talked with the fishermen who survived the incident.

He affirms that the incident occurred in territorial waters, the proof is the short time between the incident itself (16:30 local time) at the time of the arrival in the port at Neendakara (23:15 local time).


On 3rd March Mr. Freddy changed his version of 17th February and fixed his fishing boat on high seas off Chertala, at about 35 NM south of Kochi.

This is exactly the point where he could be at 30 NM off the coast picking up the course of the Enrica Lexie, which he knew from different sources.

It is also necessary to explain how it is possible that they entered the port at Neendakara, which is more than 65 NM away from that point.

The St Anthony arrived at 23.15 (*) , about 7 hours after the incident. The hypothesis of the vessel navigating at a speed of 8kts, (*) which stopped (**) and despite all had a speed of 9.2 kts needs to be better deepened.

(*) data of the Indian Coast Guard - (**) see article Asianews

Evidently the point chosen by Mr Freddy in order to fix his position on the course of the Enrica Lexie considers only one known element at that moment: 30 NM off the coast.

Actually, at 16:00 the Italian oil tanker is more south, at 28 NM (52km).

If Mr Freddy were in the point where he says he was, in the second version he should have stopped on high seas for almost two hours and waited for the Enrica Lexie, which arrived two hours later, the event would have occurred at 18.00 instead of 16.00.

Conclusion:

It is evident that this new geographical position of 3rd March is instrumental to make the position of the St Anthony coincide with the position of the Enrica Lexie by using an element coming from Italian sources: 30 NM off the coast.

But this piece of information, despite the official source which released it, is wrong. And it was changed when the Italian party provided the right piece of information about the distance of the Enrica Lexie from the coast: 20,5 NM.

Once again, it seems to be evident that the crew of the St Anthony did not have any GPS system on board, otherwise it could provid the precise geographical coordinates.
St Anthony Position n.3 – Interview given to Fiamma Tinelli published in the weekly newspaper “Oggi” on 23rd March 2012

In the interview of 23rd March given to the Italian journalist there are Mr. Freddy and five members of the crew and they give a new version of the position of the fishing boat St Anthony, the third one.


I report the article in the following:

“On 15th February we were on a fishing expedition since one week. From my boat we fish mackerels, tuna, even small sharks. The catch was pretty good, it amounted to 3000 fish. But where we were, 20 miles and a half off the coast of Kollam, there were no fish. Hence, we decided to head towards the west.”

Above: - in the picture point n.3, 20,5 off the coast of Kollam.

In this case the distance from the coast is more or less compatible: 20,5 NM; but it is again a wrong position: 28 NM more south of the position of the Enrica Lexie.
I report in the following another passage from the article:

“Maybe you were approaching the tanker? “No, we were not approaching the vessel, we were sailing parallel to the ship in the opposite direction. Valentine was a prudent man: he would have never run such a risk. We were just fishing and they kept shooting.”

**NOTE:** there is a striking contradiction. Navigating parallel to the Enrica Lexie and in the opposite direction the St Anthony was sailing towards the south-south-east, towards 150°, as we can see in the following picture:

![Diagram showing the positions of the vessels](image)

But sailing towards the west means sailing towards 270°. Well, one can not sail at the same time towards two different directions.

Sailing towards the west is incompatible with the position picked up by the on board radar of the Enrica Lexie, which indicated an approaching vessel on a collision course at prow (0°-45°).

**Conclusion:**

Mr Freddy’s new position corresponds to 20,5 NM away from the coast and to the course of the Enrica Lexie, but more south, at about 28 miles (52 km). And this time waiting would have been useless, because the Lexie sailed by that point two hours before, at 14, and not at 16.

The presence of other five members of the crew who denied what they had declared on 17th February to the Hindu indicates that all members of the crew of the St Anthony can be considered to be unreliable for any court.
It seems to be evident that the St Anthony was not equipped with a GPS system, otherwise they could provide the precise geographical coordinates.

**CONCLUSIONS FOR THE EVALUATION OF THE POSITIONS 1, 2 AND 3 OF THE ST ANTHONY**

It is not credible that a fishing boat goes on a fishing expedition, which according to the declarations should last 10 days, without any GPS instrument for fixing the position and without knowing where it was off the coast the crew could see on the horizon.

This would mean to navigate like the ancient Greek, Romans or Indian did, by tacking to the coast (unless they used the Sextant, but this allows to make the position fixing only at sunrise, at dusk and at midday).

Such a way of navigating implies that it is necessary to reach the coast when a vessel comes back from the high seas navigating using a compass and after having reached the coast looking for datum points and trying for tacking. This implies also a waste of time and fuel.

It is not credible that in less than one month three different positions have been indicated, which are tens of miles away from the point where the events occurred. In the first position the fishing boat was in territorial waters, in the second one following the press release of the Italian Marine the point is indicated as being tens of miles towards the north, and the third one corresponding to the right distance from the coast, but the point was wrongly located tens of miles towards the south.

In other words, considering the points indicated every time by the fishermen the St Anthony would never have met the Enrica Lexie.

Using a GPS they could indicate from the first day the geographical coordinates of the position where the shooting occurred.

Actually, in an article appeared on the website of the agency IBN on 16<sup>th</sup> May 2012 (**document attached**) it is reported that the St Anthony was equipped with a GPS system, and, listen to this, its position corresponds to the one of the Enrica Lexie.

It is worth remarking here that only the geographical coordinates provided in the reports by Latorre and Vitelli are reported, and not the ones of that mysterious GPS system of the St Anthony.

If it was true that the St Anthony was equipped with a GPS system they would have given the recorded information to the Police or to the Indian judiciary and they also should be in the documents of the Supreme Court of Kerala or of the Supreme Indian Court on the case.

**THE POSITION OF THE ST ANTHONY ACCORDING TO THE INDIAN AUTHORITIES**

The different Indian deeds or acts under seal are available on the net now. In some of them the location of the incident is not mentioned (not mentioned acts), especially in the FIR (First Information Report of the Coastal Police of Neendakara), 20.5 Nm off the coast at 16.00.

**According to the acts of the Supreme Court of Kerala:**
On the unfortunate day of the incident, 15-02-2012 when the vessel was at a distance of 20.5 Nautical Miles off the coast of India beyond the territorial waters of India, the petitioner vessel alleges it

On February 15, 2012 an First Information Report (FIR) was lodged at Neendakara Coastal Police Station by one Fredy, owner of the Indian registered fishing boat St. Antony. It was alleged in the FIR that at 4.30 p.m. (IST) on that day while the fishing boat St. Antony was sailing through the Arabian Sea,

Immediately, the boat returned to Neendakara and the owner of the boat gave First Information Statement before the third respondent, the Circle Inspector of Police, Neendakara, who recorded the same and registered a case as Crime No. 2 of 2012, copy of which is marked as Ext.P2 for murder punishable under Section 302 of the Indian Penal Code (hereinafter referred to as the IPC). In Ext.P2, it was alleged that while fishing at 33 Nautical Miles (NM) away from the police station (editor's note. of Neendakara)

According to the Acts of the Supreme Court of India

January 18, 2013 IN SUPREME COURT OF INDIA, RECORD OF PROCEEDINGS, WRIT PETITION (CIVIL) NO(s). 135 OF 2012 : REPUBLIC OF ITALY THROUGH AMBASSADOR & ORS. Petitioner(s) VERSUS UNION OF INDIA & ORS. WITH SLP(C) NO. 20370 of 2012

on 15th February, 2012, it came across an Indian fishing vessel, St. Antony, which it allegedly mistook to be a pirate vessel, at a distance of about 20.5 nautical miles from the Indian sea coast off the State of Kerala,

Actually, while there was a wandering and roaming in the Indian Ocean, where was the fishing boat St Anthony at 16 local time on 15th February 2012?

ANALYSIS OF THE TIME AT WHICH THE EVENTS OCCURRED

Not only the geographical position but also the time at which the events occurred is fundamental in a reliable technical analysis.

We have seen how the witnesses on board of the St Anthony wander from position to position without finding any position compatible with the one of the oil tanker Enrica Lexie.
At this point it is necessary to verify the time indicated by the different subjects.

ENRICA LEXIE

There are no doubts about the time of the incident from the point of view of the Italian party. It was indicated after the events on 15th February 2012.

- At **16:00** Local time according to the report of the Chief of the detachment Latorre
- At **16:00** Local time according to the master Vitelli
- At **12:30** Italian time according to the first press release of the Italian Marine (corresponding to 16 local time because of the different time zone)

ST. ANTONY

- On **Wednesday evening** according to the interview given to THE HINDU on 17th February 2012;
- **In the evening, around 4pm** according to the interview given to the Deccan Chronicle on 3rd March 2012;
- **It might have been 4.15 in the afternoon** according to the interview of 23rd March 2012 given to Fiamma Tinelli of the weekly newspaper "Oggi";
- When it was **around 9.30** according to what Mr. Freddy Bosco declared after his arrival at Neendakara the evening of the incident to the the TV Venad News and to other local media.

As this last declaration given immediately after the arrival, when Mr Freddy did not even know about the existence of the Enrica Lexie, and while the Enrica Lexie was still navigating towards Kochi (it arrived at about midnight), is particularly important and has to be analyzed in details.

NEENDAKARA, KERALA, AT ABOUT 23.30 LOCAL TIME . THE RASHLY ISSUED DECLARATIONS

The master-owner of the fishing boat St Anthony gives interviews to the journalists.

It is likely that at that time he did not know that there is an oil tanker called Enrica Lexie and that it was escorted to the port of Kochi (110 km north) later on.
The video belongs to the local TV Venad News, but one can easily see that he talks at other microphones and at the presence of other witnesses. Among them a policeman.

Investigators and the judiciary do know the relevance of the eyewitness accounts immediately after an event when the subject, in most cases still under emotional choc and before thinking the facts over, reports in a free way without any hesitation.

Above: - in the same video we have pictures like this, showing the recovery of the bodies being put into the ambulance and still in the blankets used on the fishing boat. And other pictures showing the corpses while they are put into the freezers.

These are the minutes immediately after the arrival of the St Anthony at Neendakara, which is the seat of the police station where the first report was drawn up (FIR n.2/2012).

The port of Kochi, where the Enrica Lexie had not arrived yet, was at 60 NM (110km) north. The police of Kerala went on board and arrested the two Italian marines only on 19th February 2012.

The Head of the Coast Guard in Mumbai where the operations for escorting the Enrica Lexie to port were coordinated were at 650 NM (1.200km) north.

Let's see what Mr. Freddy Bosco declares immediately after the events.

http://www.youtube.com/watch?v=Ya48kLyiB4

Translation of the vide (from minute 2:05 to 3:36)

When it was around 9.30PM, I heard a huge noise
And when I woke up I saw my crew member “Julas” filled with blood from ears and nose
I shouted, everyone woke up and started shouting
They started firing against us from the ship after hearing the shouting.
I told everyone to lay down in the boat and be silent
Then I heard a voice”o my mother” after sometime and came to know that other person pinku also got shot dead at the spot
That two things happened.
I tried to move the boat fast and flee from the scene. The bullets were dropping besides us in water and and all over the boat. We ran from the site with the boat. **The Color of ship was Black at top and Red at the bottom.** We worked many years along the ship for fishing and we never cross this kind of incident. When these things happened suddenly we all were shocked and frightened. There were frequent firings against us and we all would have been hit by the bullets if we had not laid down on the ground. 4-5 Bullets were hit inside the boat and bullets also hit and broke the regulator of Gas Cylinder in the Boat. In God’s grace we shifted the location of the boat by fleeing from the scene, otherwise, we would have been surely dead

*When it was around 9.30PM,...*

<table>
<thead>
<tr>
<th>When it was around 9.30PM,...</th>
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<td>As we have seen the fishermen had always declared that the incident occurred at 16 local time.</td>
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**TIME – HYPOTHESIS 1 - MR. FREDDY INDICATES 9.30 IN THE EVENING, 21.30 LOCAL TIME OF 15TH FEBRUARY.**

1. according to the statements it is impossible that the Enrica Lexie met the fishing boat St Anthony at the moment of the shooting.

   As a matter of fact, according to this second declaration by Mr Freddy the St Anthony was hit 5 hours and half after the warning shots from the Enrica Lexie were fired to lead an approaching vessel, which was not the St Anthony, to change course.

2. but this declaration, according to which the shooting in which the St Anthony was hit occurred two hours before its arrival (which took place at 23:15 local time) contradicts some elements:

   - The question to be answered is how it is possible that in the middle of the night Mr Freddy managed to see the colours black and red of the ship at 20,5 NM off the coast, the light by night is weak;

   - The declarations according to which they were at 20,5 NM off the coast are unreliable. Sailing at a maximal speed the St Anthony can cover 16 miles in two hours, and not 20,5 NM;

   - The Coast Guard affirms that they were alerted and informed about the incident at 18 local time. Hence three hours and half before the incident. This is impossible.
The advanced state of rigor mortis the corpses showed, completely incompatible with death occurred 2 hours before (the rigor mortis started three or four hours after death, the pictures show an advanced rigor mortis, which probably begun 8 or 12 hours before, according to the climate conditions).

Above: the evidence of an advanced state of rigor mortis on one of the victims in the ambulance.

The advanced state has already reached the main muscles, which are concerned by the phenomenon after 3 hours and till 10/12 hours after death. After that the rigor mortis does not change for 24/36 hours.

Here I will not discuss the state of the corpses from a medical-legal point of view which does not belong to the competences of the undersigned, I would just like to indicate the macroscopic incompatibility with death occurred two hours before.

**Conclusion:**

The hypothesis that Mr Freddy refers to 9.30 in the evening (21.30 local time of 15th February 2012) can be excluded.
HYPOTHESIS: MR. FREDDY INDICATES 9:30, 21:30 LOCAL TIME, BUT OF THE PREVIOUS DAY, 14TH FEBRUARY 2012

The St Anthony went on a 10 days tuna fishing expedition on 7th February. In that period (between October and April) the usual tuna fishing area in the Indian Ocean is considered to be the Bay of Bengala (FAO studies in the regional fishing sector), especially off the Indian south-east coast. This is the opposite direction to the point where the attack is thought to have occurred, near Sri Lanka, in the Palk Strait, beyond the territorial waters of Sri Lanka.

Fights and arrests, sinking, disappearances, injuries, people shot dead in the area are on the everyday agenda. The Coast Guard and the fishermen from Sri Lanka are determined in protecting the fisheries sector against the fishermen coming from the overlooking Indian State of Tamil Nadu (where the St Anthony was registered and in which its owner was born). There is a huge amount of documented information about this.

The acquiescence of the Indian central government and of the government of Kerala concerning the violence of the Coast Guard of Sri Lanka against the fishermen and of the Indian armed fishermen has been reported by the organizations of Indian fishermen. Recently it was also remarked that being tough on the two Italian marines does not correspond to the attitude towards the crimes committed by Sri Lanka.

If the incident really occurred at 21.30 of 14th February, 26 hours before the arrival of the St Anthony into port with the fishermen shot dead on board, and that the non-involvement of the Italian oil tanker and of the marines is an established fact, is it possible to relate the murder of the two fishermen to the context of fishing war between India and Sri Lanka?
In the picture above it is indicated the itinerary which goes from Neendakara to the centre of the Palk Strait, around the line of the border between the Indian territorial waters and the territorial waters of Sri Lanka where shootings oft occur.

The distance till Neendakara is about 180 NM, which the St Anthony sailing at its maximal speed at 8 kts covers in 22.5 hours. This is compatible with the 26 hours indicated and reported by Mr Freddy in this hypothesis.

**Validation**

In order to support and validate this hypothesis in the following I will cite a passage from an article by Giuseppe Sarcina of the "Corriere della Sera" published on 4th March 2012. The article is about the postmortem report about one of the victims and about the retained bullet:

> Even the reading of the postmortem report about the autopsy of the body of Valentine carried out on 16th February can leave one puzzled. The document (consultation thanks to an Indian source) contains two interesting passages, which hardly match with one another. First: we can read that the bullets have followed a trajectory from the top to the bottom (and this could indicate that the shots came from the Enrica Lexie, fired from a far distance against the fishing boat with a shooting range of 9 metres). Second: according to the report, signed by K. Sasikala, professor of medicine and pathology at Trivandrum, the metal pointy bullet found in the skull of the fisherman is 3.1 cm long, 2 cm round on the head and 2.4 on the bottom: According to Italian ballistic experts, these sizes could indicate a bigger bore than the 5.56 NATO bore (the one used by our marines). But the experts point out that such a bullet would have had more devastating effects on Valentine’s head than the ones found during the autopsy, unless the shot was fired at a distance of 1000 – 1500 metres (such a hypothesis has not been considered during the investigation). As we can see, in spite of the efforts one can make, without the ballistic expertise we can not get out of it.

Let’s re-read the above cited passage: "according to the report, signed by K. Sasikala, professor of medicine and pathology at Trivandrum, the metal pointy bullet found in the skull of the fisherman is 3.1 cm long, 2 cm round on the head and 2.4 on the bottom. He indicates the circumference not the diameter.

It is not usual to take into account the circumference not the diameter in the analysis of a bullet. In fact, it is impossible to measure the circumference on a small object like a bullet.

In order to get the circumference it is necessary to measure first the diameter (which corresponds to the bore) and then using the geometry formula calculate the circumference.

It is obvious that in the analysis of the bullets it is indicated the diameter and not the circumference. **In this case the diameter corresponds to a 7.62 bore**, which the marines on the Enrica Lexie were not equipped with.
In other words, Prof. Sasikala describes a classical rifle bullet.

Taking the circumference C (24mm) as the starting-point it is easy to calculate the radius R using the formula \( R = \frac{C}{2 \pi} \) and hence the diameter of our bullet will correspond to \( -7.64\text{mm} \).

This measure can be easily identified with a nominal bore of \(+7.62\text{mm}\), a classical bore that exists both in the NATO version and in the ex USSR version, a typical example is the AK47.

Therefore, the bore of the bullet in only the result of the autopsy carried out by the pathologist Sasikala, the person in charge of the Indian judiciary and of his personal measurements alone. And this completely clear.

Considering the diameter and the length of the bullet (3.1 centimeters corresponding to 31mm) we can easily go back to the cartridge 7.62x54R.
Above: cartridge ex URSS 7,62x54R, in the different versions (tracer-bullet, ordinary bullet, etc).

This cartridge can be shot using only two arms in the world.

The soviet precision rifle Dragunov (manufactured under licence in different countries)
The soviet machine gun PK1.

These two arms are diffused both in some regular armies and among pirates.

Moreover, the machine gun PK1 is placed on the small boat "Arrow Boat" of the Coast Guard of Sri Lanka.
It is equipped with an ex URSS GSH 30mm cannon of aeronautical derivation at prow, astern it has a 40mm grenade launcher and in the middle it has a PK 7,62X54R machine gun.

This small boat (designed and assembled in Sri Lanka) is used to patrol the territorial waters in the fight against illegal fishing. And it surely has one of the main roles in the attacks against the Indian fishermen who enter the territorial waters of Sri Lanka and go to fish tunes in the Palk Strait.

**Trajectories of the shots**

The hypothesis that a small boat of the Coast Guard of Sri Lanka opened fire against the Indian boat could be compatible with the angles and the horizontal trajectories of the shots.
The state of the bodies of the victims

If the state of advanced rigor mortis was completely and macroscopically incompatible with a death occurred one hour before (21.30 of 15/02/2012) it becomes compatible with death occurred at 21.30 on 14/02/2012.

2 Indian fishermen mistaken for pirates, shot dead

Above: advanced rigor mortis on the dead body of one of the victims in the ambulance.

The advancing of the process has already reached the big muscles which are affected by the phenomenon in the last stage from 3 hours to 10/12 hours after death. After that the degree of stiffness remains unchanged for 24/36 hours.

At this point I do not want to propose a medical-legal discussion which is far away from the competences of the undersigned, but just give an indication of macroscopic compatibility with death occurred 25 hours before.

THE CONDUCT OF THE INDIAN COAST GUARD

At this point it is necessary to analyze again in a critical way the conduct of the Coast Guard and what they did to lock to port the Enrica Lexie.

Let's consider the document SAFE WATERS - nr.4 2012 (An Indian Coast Guard Publication), del 4 Jun 12.
We have a precise element, at 18:25 local time the MRCC (Maritime Rescue Coordination Centre Mumbai, at about 1.200 km north of the point in which the alleged attack against the St Anthony occurred) identifies four possible suspects and asks them if

\[ \text{MT Enrica Laxie escorted to Kochi by ICGS Lakshmi and ICGS Samar} \]

The appreciation led to suspicion on MT Enrica Laxie. The updated position of the suspected vessel was immediately passed to ships at sea and CG Dornier.

The vessel was in position 243 Kochi Lt 37 n miles, about 34 n miles from the incident position and directed to alter course and proceed to Kochi anchorage for further investigation. The master also informed that 06 Italian Navy Guards were present onboard the vessel and did not intimate about the attack to any authority in India.

UKMTO confirmed of having received a message from MT Enrica Laxie. At 1950 h on 15 Feb 12, CG Dornier located MT Enrica Laxie and vectored ICG ships for interception. CG Dornier also directed the vessel to proceed to Kochi anchorage for investigation. ICGS Lakshmi intercepted MT Enrica Laxie at about 2045 h on 15 Feb 12 and escorted the vessel till Kochi anchorage.

Meanwhile, the ill fated fishing vessel St Anthony entered Neendakara harbour, Quilon at about 2315 h on 15 Feb 12 and it was confirmed by the police that the boat had a total crew of eleven fisherman and two were killed during the firing incident.

The preliminary investigations, documentary evidence correlated with the events clearly bring out
they had had any pirate attacks (*the famous "ingenious tactic" according to S.P.S. Basra, Chief of the Indian Coast Guard in the west region)*.

The four suspect vessels are **Enrica Lexie, Kamome Victoria, Ocean Breeze e MSC Giovanni**, which sailed over the area where the incident occurred.

We have verified some evidences using the AIS system, the same system that was used by the Indian Coast Guard according to their statements.

**Note:** it is necessary to remark that the vessels sailing on courses with a high risk of pirate attacks turn off the AIS system in order to avoid being picked up by the pirates. Some of them turn it on in stops and starts in order to be identified (for example Kamome Victoria) or they never turn it on (for example the Greek oil tanker Olympic Flair which switched it off or the Enrica Lexie which turned it off when it arrived in the territorial waters of Kerala).

We checked the position of the four vessels at 18.25 local time, which according to the statements of the Indian Coast Guard should have been within the search area corresponding to a range of 60 NM probably off the port of Kochi.

The verification will allow us to verify where they were and to understand the reason why the Enrica Lexie has become the main suspect.

Considering the four vessels Enrica Lexie, Kamome Victoria, Ocean Breeze e MSC Giovanni we could reconstruct courses and position according to the public data base of the AIS system. (Attached documents x1, x2, x3)

Above: In the picture we can see the position of three of the four suspect vessels at 18.30 according to the Indian Coast Guard.
The Enrica Lexie, which is practically off the port of Kochi, from which aircrafts and vessels left to go and pick it up.

Kamome Victoria and Ocean Breeze which at 18.30 left India and were at 180 NM south of Kochi. In other words, they are not suspects because at 9.30 in the morning they were off Neendakara sailing towards the south.

Above: The position of MSC Giovanni at 18.30 local time at about 420 NM off Kochi

Hence the search for the suspects is false, conducted on vessels that had sailed over the area of the incident early in the morning, eight or nine hours before the fact. Or like in the case of the MSC Giovanni they were hundreds of miles far from the seashore with respect to the point of the incident.

Why did the Indian Coast Guard, this time in Mumbai (1.200 km north), invent this story and point to an investigation which has never taken place? Or even there has been but its aim was to find one and only one culprit. A sort of American confrontation with just one subject to be recognized.

They have taken for granted that the Enrica Lexie was the culprit fraudulently claiming that the investigations were conducted on the vessels in the area which actually could not be in the area: they were almost in Sri Lanka or in the middle of the Indian Ocean.

Why?

The undersigned does not want to go into the details of hypotheses, scenarios or reasons of the evidence. The undersigned will just take the results of the AIS database into account, which are available for everybody and from many and diverse sources.
But as the case of the four suspect vessels taken into account and the so called "ingenious tactic" which they used to pick up the Enrica Lexie among the four vessels, and that fraudulently was presented in global media by influential officers of the Indian Coast Guard has been revealed to be pure fabrication, the undersigned asks for a technical analysis to shed light on this dark side of the issue.

**CONCLUSIONS OF THE ANALYSIS OF THE POSITION OF THE ENRICA LEXIE AND OF THE FISHING BOAT ST ANTHONY ACCORDING TO THE WITNESSES**

In both cases the analyzed statements of Mr Freddy Bosco the evening of 15th February, at 9:30PM of 15th February or at 9:30PM of 14th February the shots which hit the St Anthony did not come from the Enrica Lexie.

 Actually the witness clears the two alleged culprits Latorre and Girone completely in front of tens of microphones and cameras at the presence of a policeman.

It is worth asking why in the aftermath the Indian journalists and the policeman did have no reaction when they realized that Mr Freddy indicated that the attack occurred at 16 local time in all further interviews. One could think of a sort of code of silence, for I asked recently to provide me with the translations of the statements of Bosco and I got no answer.

The high degree of discrepancy between the different indicated times by the witnesses of the St Anthony in the many and diverse public statements speak for itself and make the witnesses unreliable for any court.

The press releases of the 16th May in which a GPS system on the St Anthony is mentioned are another throwing off tack and a childish attempt at associating time and place of the fishing boat with the ones of the Enrica Lexie.

If this were true, the fishermen would have indicated the geographical position the evening of 15th February when they arrived at Neendakara, while the Indian authorities and the media in that country continued for many months to indicate changeable and bogus positions.

Also in this technical analysis, whose aim was to analyze the compatibility of the positions and times following the statements of the witnesses of the two parties (Enrica Lexie and St Anthony) seems to be evident that this compatibility is not there.

The same result was obtained by analyzing the impact angles of the bullets on the fishing boat St Anthony and the elements from the Piroli report released by the Italian press about the ballistic expertise.

The general frame at the end of this work can be summarized as follows:

1. The dispute settlement procedure – a high degree of negligence in the investigations towards other alleged culprits, destruction of exhibits, the whole prosecution has no legal force

2. Piroli report – Absurd hypothesis of the same shooting error with two men shot dead and two shots on the fishing boat. Moreover with two mistaken rifles. Also absurd is the hypothesis of the will to kill, for using the firearms the marines are equipped with (11 shots a second) and with the will to kill no member of the crew of the St Anthony would
have survived. This is a serious clue of the fabrication of false proofs against the two marines. A grave concealment of proofs clearing the two accused marines by the side of the Indian and Italian party, again the mistaken rifles.

3. Analysis of the trajectories and of the impacts – Incompatibility between the reciprocal positions of the Enrica Lexie and of the fishing boat St Anthony and the angles of impact we can see in the pictures showing the St Anthony.

4. Analysis of the geographical positions and of the times according to the witnesses of the two parties – complete incompatibility because of the amount of wrong information about position and time indicated by the crew of the St Anthony. Evidences that the fishing boat was attacked by unknown the evening before, on 14th February. Evidences that the conduct of the Indian Coast Guard in identifying the suspect vessels was anomalous and contradictory.

The undersigned would like to draw the attention to the fact that if I really were the expert of the defendant (I am playing this role in a virtual and voluntary way) I would be only in the phase of the preliminary analysis with the purpose of creating a frame of analysis before going into the details of the analysis of radar data, postmortem report, ballistic expertise, chemical analysis etc.

But the available elements show that both the indicial and the objective evidences in favor of the defense prevail on the evidences in favor of the prosecution.

It is actually alarming that the Supreme Court of India has been led to think that the hypothesis of guilty can be taken for granted, even if it appears to be airy-fairy (this is the reason why the professors at the university reject the student in architecture who present airy-fairy projects, projects without any material basis. In our case the whole dispute settlement procedure is airy-fairy).

In the 160 pages sentence of the Supreme Court of India the elements considered to show the guilty of the two Italian marines can be found in the following:

2. While the aforesaid vessel, with the Military Protection Detachment on board, was heading for Djibouti on 15th February, 2012, it came across an Indian fishing vessel, St. Antony, which it allegedly mistook to be a pirate vessel, at a distance of about 20.5 nautical miles from the Indian sea coast off the State of Kerala, and on account of firing from the Italian vessel, two persons in the Indian fishing vessel were killed. After the said incident, the Italian vessel continued on its scheduled course to Djibouti.
48. Mr. Banerji submitted that stripped of all embellishments, the bare facts of the incident reveal that on 15th February, 2012, FIR No.2 of 2012 was registered with the Coastal Police Station, Neendakara, Kollam, under Section 302 read with Section 34 I.F.C. alleging that a fishing vessel, "St. Antony", was fired at by persons on board a passing ship, as a result of which, out of the 11 fishermen on board, two were killed instantaneously. It was alleged that the ship in question was M.V. Enrica Lexie. The detailed facts pertaining to the incident could be found in the statement dated 28th February, 2012, filed by the Coast Guard before the Kerala High Court and the Charge-sheet filed on 18th May, 2012.

As one can read, they clearly state before the beginning of the trial that the culprits of the murder of the two fishermen were on the Enrica Lexie.

The details of the event are to be found in the report of 28th February 2012 (13 days after the events). They were sent to the Court of Kerala by the Coast Guard and received on 18th May 2012.

The authorities do not doubt that the two accused could be innocent, even if the trial has not begun yet.
**CONCLUSIVE REQUESTS**

Against the background of what it was explained and observed above, the undersigned requests that

- if in the described events and facts criminal offences of whatever nature and committed by whatever party are recognized, the culprits will be prosecuted;

- the judicial authorities can be informed of the work I have done so far and registered at the Public Prosecutor's Office in Rome in order to provide the lawyers of Latorre and Girone with interesting elements for the defense;

- the judiciary takes measures in order to prevent the authorities from sending other persons to the Indian authorities. In the case of the two marines Andronico and Voglino the NIA required as witnesses, there is the risk that they could be arrested and accused of murder during the trial according to what is reported in the Piroli report and described in another registered document. And this because it is thought that their rifles were used to fire the shots against the St Anthony. This represents a grave clue of the fabrication of false proofs against the two accused Latorre and Girone;

- the judiciary prosecutes whomever in dealing with this issue has shown to have acted for the safeguard of economic interests alone, which are irrelevant to a legal process, giving up in this way *de facto* the possibility of an efficient defense for the two accused Latorre and Girone;

- The undersigned would like to be informed if this exposé is filed away or set aside.

The undersigned remains at disposal of the Bench for any further explanation or necessary information

Rome, 15th May 2012

Respectfully

Luigi Di Stefano
THE CASE OF THE ENRICA LEXIE:  
TECHNICAL ANALYSIS 
ANALYSIS OF THE BEGINNING 

ATTACHED DOCUMENT TO THE DOCUMENT N. 051695 
(registered at the Public Prosecutor's Office on 13th March 2013) 

OBJECT: Technical analysis and observations about the case of the oil tanker Enrica Lexie and of the two Italian marines Massimiliano Latorre and Salvatore Girone jailed in India and accused of the murder of two persons.
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ANALYSIS OF THE BEGINNING

PREMISE

In this document we aim at verifying or discussing the conduct of the Indian authorities the day the facts occurred and in the following days, on 15th and 16th February 2012 in the light of the knowledge of the elements acquired in the 22 months immediately after the facts.

The aim is to reject or validate the hypothesis of a political management of the whole issue right from the beginning. In other words, here it is argued that the issue was presented in a way which let the public opinion believe in the Italian responsibility and which led the Indian public opinion to have a nationalist reaction.

The facts are well-known and explained in details elsewhere:
- http://www.seeninside.net/piracy/

At 16:00 Indian time (IST) the on board radar of the Italian oil tanker Enrica Lexie, which had an anti-piracy protection team on board consisting of an Italian military protection detachment, picked up a vessel on a collision course.

At about 16:30 the protection team shot warning shots in order to lead the approaching vessel to change course.

At about 17:00 the all-clear was given on board and the Enrica Lexie could keep sailing towards the Arabic peninsula.

THE RECONSTRUCTION OF THE EVENTS ACCORDING TO THE INDIAN AUTHORITIES

(from the bulletin of the Coast Guard, April 2012)

Summing up:

At 18:25 Indian time (IST) the Indian Coast Guard in Mumbai identifies 4 possible suspect vessels that sailed over the area where the incident occurred. (These are Enrica Lexie, Kamome Victoria, Ocean Breeze and MS Giovanni).

At 19:50 an aircraft of the Indian Coast Guard located the Enrica Lexie and asked the Italian tanker to come to the Indian port of Kochi.

At 20:45 the unity of the Indian Navy “Lakshimibai” located the Enrica Lexie and the vessels escorting it in the harbor of Kochi.

PLEASE NOTE: It is evident that according to this version at 20:45 on the on board radar of the Enrica Lexie we should find the trace of another vessel, the Indian patrol boat Lakshimibai. The Lakshimibai should be in the radar registrations of the Enrica Lexie at 20:45 and till the arrival at the port of Kochi.
PIRACY

**Firing Incident by MV Enrica Lexie**

The Italian Navy armed guards onboard Motor Tanker Enrica Lexie opened fire on fishing boat “St Antony” on 15 Feb 12, suspecting it to be a pirate skiff which led to two casualties.

On receipt of information, ICGS Samar on patrol off Vizhinjam coast was diverted and ICGS Lakshmibai was sailed from Kochi at 1935 h on 15 Feb 12 (with 04 police personnel embarked) to the most probable area for search and interdiction of the suspected merchant vessel.

Further, Coast Guard Dornier ex-747 Sqn (CG) was launched for sea-air coordinated search. MRCC (MB) was concurrently directed to analyse the AIS and LRIT plot and correlate with available inputs to identify and track the suspected merchant vessel.

At about 1825 h on 15 Feb 12, MRCC(MB) analysed space based AIS (AIS-SB) plot and identified four probable merchant ships which could have transited from the incident position.

**Safe Waters**

An Indian Coast Guard Publication

UKMTO confirmed of having received a message from MT Enrica Lexie. At 1950 h on 15 Feb 12, CG Dornier located MT Enrica Lexie and vectored ICG ships for interception. CG Dornier also directed the vessel to proceed to Kochi anchorage for investigation. ICGS Lakshmibai intercepted MT Enrica Lexie at about 2045 h on 15 Feb 12 and escorted the vessel till Kochi anchorage.

Meanwhile, the ill fated fishing vessel St Antony entered Neendakara harbour, Quilon at about 2315 h on 15 Feb 12 and it was confirmed by the police that the boat had a total crew of eleven fishermen and two were killed during the firing incident.

The preliminary investigations, documentary evidence correlated with the events clearly bring out that MT Enrica Lexie did not have a response plan against piracy and failed to resort to graduated use of force. In fact, use of force by MT Enrica Lexie is illegal since the fishing vessel St Antony was at 100 mtrs from the vessel and was not making attempts for boarding the vessel and there was also no threat to life onboard MT Enrica Lexie.

Presently, two Italian armed guards are in police custody for judicial proceedings.
THE CONTRADICTION

In June 2013, thanks to the efforts of Mr. Toni Capuozzo (Journalist) and Mr. Stefano Tronconi (Manager) the ship owner of the Enrica Lexie pulled out the original document in which the Indian Coast Guard invited the Italian tanker to come to port.

The email was sent at 4:06 PM UTC. This corresponds to 21:36 IST (local time).

The email is a formal and polite request to come to port in order to conduct some inspections. Also the “ETA”, the estimated arrival time, was required.

After only 11 minutes (see below) the Enrica Lexie communicated both the ship owner and the International authorities taking part in the anti-piracy mission that they had already changed course to go back to Kochi.
It is evident that the theatrical reconstruction of the events, according to which the Indian Coast Guard organized a sort of hunt is completely invented. The email sent by the Indian Coast Guard disproves it. The Coast Guard did not attend the escape and then the hunt ending up in the capture at 20:45. Rather, the Coast Guard sent a formal and peaceful request to come to port at 21:36, almost one hour later.

The “false scenario” is confirmed by a verifiable evidence. The Indian Coast Guard declared that they used the AIS (Automatic Identification System) to track the four vessels that were in the area. But analyzing the AIS data base (which is public) one can easily verify that the Enrica Lexie was the only vessel in the area.

"Kamome Victoria" and "Ocean Breeze", sailing towards the south, at 18:30 (time of the search) were almost arrived in Sri Lanka, they had transited the area of the shooting at 9:30 in the morning (about 7 hours before the shooting occurred)

The "MS Giovanni" was even 700 km off the Indian Coast.

Everybody can verify this piece of information by using the AIS data available on many specialized websites.

Undoubtedly the events reported in the bulletin in April by the Indian Coast Guard are not reliable.

With regard to the formality and brevity of the email sent at 21:36 IST in the reconstruction of the events there is a dramatic force in reporting the events, which seems to aim at validating an operation of “escape”, “search” and “hunt”, which has never taken place. The clear purpose was to influence the media and the public opinion to believe in the guilt of the Italian marines.
WHAT DID THE INDIAN AUTHORITIES KNOW AT MIDNIGHT OF THE DAY THE FACTS OCCURRED, ON 15TH FEBRUARY 2012?

<table>
<thead>
<tr>
<th>IST - Indian Time - UTC Universal Time</th>
<th>IST</th>
<th>UTC</th>
</tr>
</thead>
<tbody>
<tr>
<td>Incident to Enrica Lexie</td>
<td>16:00</td>
<td>10:30</td>
</tr>
<tr>
<td>Report Enrica Lexie</td>
<td>19:00</td>
<td>13:30</td>
</tr>
<tr>
<td>Mr. Bosco statement (around to)</td>
<td>21:30</td>
<td>16:00</td>
</tr>
<tr>
<td>Mail Coast Guard to Enrica Lexie</td>
<td>21:36</td>
<td>16:06</td>
</tr>
<tr>
<td>Enrica Lexie go to Kochi</td>
<td>21:47</td>
<td>16:17</td>
</tr>
<tr>
<td>Piracy report Olympic Flair</td>
<td>22:20</td>
<td>16:50</td>
</tr>
</tbody>
</table>

The table shows the times of the events both in IST (Indian Standard Time – official Indian time) and in UTC (or GTM, International time).

Please note:

- at 22:20 the Greek oil tanker Olympic Flair reported to the International anti-piracy authorities an attack occurred off the port of Kochi (the team declared that they were attacked by two piracy vessels with about 20 armed men on board)

- at about 23:00 the fishing boat St. Anthony arrived at Neendakara with two men shot dead on board and its owner/master Mr. Freddy Bosco said in the microphones, in front of the cameras and in the presence of one policeman that at “9:30 PM” – this is at 21:30 – they were attacked.

(https://www.youtube.com/watch?v=A_NPoY7RduY from minute 3:24 to 4:54)

Therefore at midnight on 15th February the Indian authorities knew that:

- A fishing boat was attacked and two men were shot dead at about 21:30
- An Italian vessel, the Enrica Lexie, reported a pirate attack at about 16:00
- A Greek oil tanker, the Olympic Flair, reported a pirate attack at 22:20.
Hence, at the least the Indian authorities had to invite to come back to port the Greek oil tanker Olympia Flair as well (on this vessel there were contractors on anti-piracy protection service working for the company a Diaplous. This piece of information will become public only in April 2013).

It is very important to show that the master of the St. Anthony declared that they were attacked at 21:30;

**CONCLUSIONS:**

On 15th February at midnight the Indian authorities did know that the attack against the fishing boat St. Anthony occurred at 21:30 and that two vessels had reported pirate attacks, the one at 16:00 and the other one at 22:20;

The first one had been invited to come to port, the second one, the Olympic Flair, was simply ignored.
THE 16TH FEBRUARY: THE PHOTOSHOW

News Release (Kochi) - 16 Feb 1

MERCHANT SHIP ENRIKA LEXIE HELD FOR KILLING TWO FISHERMAN AT KOCHI

This picture was released by the Indian Coast Guard on 16th February. It shows the Enrica Lexie together with the patrol boat Lakshimibai, which took part in its capture.
The merchant ship Enrika Lexie was involved in the killing of two fishermen off the Kerala coast. The ship is anchored off Kochi harbour for investigation by Indian Law enforcement agencies (Indian Coast Guard and Kerala State Police) and Indian Navy.

This picture shows the patrol boat Samar, with the Enrica Lexie and its “fake-victim”, the fishing boat St. Anthony.

Above – The real fishing boat St. Anthony
Above – The red little points all around the false St. Anthony show on the left a vertical beam astern and on the right the structure for pulling the nets, which are missing on the true St. Anthony.

The red point in the middle indicates the result of image editing on the flank.

The fishing boat in this picture can not be the St. Anthony, which is in the port of Neendakara, 150 km south, it is likely a similar fishing boat used to take the bird view image.
In other words, already on 16th in the morning a show with the culprit, the victim and the executioners was organized for the media with the purpose of confirming the guilt of “the Italians”.

It is very easy to obtain a more or less accurate copy of the fishing boat St. Anthony. It is a vessel defined as a “traditional fishing boat” that fishermen can purchase using financial aids from the State. Traditional boats are all the same. The only differences are the colours and the fishing equipment according to the specific needs for each type of fishing activity.

And this supports the account by Master Noviello, deputy commander of the Enrica Lexie, who declared that the boat the Enrica Lexie had the accident with was not the fishing boat St. Anthony because this has different details.

(https://www.youtube.com/watch?v=6qiedf9ttMs)

Of course, we can analyze the pictures of the boat make from Italian soldier in order to put in evidence the different details, but unfortunately these too are unavailable: Exactly like in the case of the radar data.

As further proof of the fact that on 16th February everything had already been decided we have this fax sent to the ship owner (we got it together with the email by the Indian Coast Guard from the journalist Toni Capuozzo) from the Government of India – Department of Transport in which without any digressions it is reported that the shots fired from the Enrica Lexie killed two fishermen.
The document was sent for information to different Indian military and governmental authorities and it shows that only a couple of hours after the incidents everything had already been decided.
CONCLUSIONS:

It seems to be evident that the Indian authorities, and not only the local authorities in Kerala, on 16th February had already created “the case” against the Italian tanker:

- by ignoring the possibility of other potential culprits
- by ignoring the report of the master of the fishing boat
- by releasing false scenarios of the facts
- by creating a photo-show according to the structure “culprit/victim/executor”
- by declaring an explicit governmental position with an official document

All the rest is a consequence of the decision taken on the 16th February.

But as an issue like this from the point of view of the judicial investigation is composed like a puzzle putting together hundreds of pieces which have to match with one another and as it is difficult to manage to make credible such a high number of “whoppers”, they had the idea of using the anti-terrorism legislation “SUA Act”, which considers the reversal of the proof against the accused.

In this way they got up a sort of witch-hunt, where the accused has to prove that she had never gone to the witches’ Sabbath on a broom and that she had never copulated with the Devil.

WHY?

It is necessary to explain what happened on 15th and 16th February 2012 because it is not acceptable that the Indian Coast Guard and the Department of Transports organized such a fiction concerning the pictures, the false reconstructions of the events, ignoring the main eyewitness accounts and the pirate attack against the Greek oil tanker. There seems to be an “intention” behind such a behavior or conduct. These questions can be answered by journalists and politicians who are expert at Indian affairs. In light of the formulated observations they should be taken into account to provide convincing answers.

CONCLUSIVE REQUESTS

Against the background of what it was explained and observed above, the undersigned requests that

- if in the described events and facts criminal offences of whatever nature and committed by whatever party are recognized, the culprits will be prosecuted;
- the judicial authorities can be informed of the work I have done so far and registered at the Public Prosecutor's Office in Rome in order to provide the lawyers of Latorre and Girone with interesting elements for the defense;
- the judiciary takes measures in order to prevent the authorities from sending other persons to the Indian authorities. In the case of the two marines Andronico and Voglino the NIA required as witnesses, there is the risk that they could be arrested and accused of murder during the trial according to what is reported in the Piroli report and described in another registered document. And this because it is thought that their rifles were used to fire the shots against the St Anthony. This represents a grave clue of the fabrication of false proofs against the two accused Latorre and Girone;
• the judiciary prosecutes whomever in dealing with this issue has shown to have acted for the safeguard of economic interests alone, which are irrelevant to a legal process, giving up in this way *de facto* the possibility of an efficient defense for the two accused Latorre and Girone.

• The undersigned would like to be informed if this exposé is filed away or set aside.

The undersigned remains at disposal of the Bench for any further explanation or necessary information

Rome, 20th Aug 2014

Respectfully

Luigi Di Stefano