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C O U R T O F T R I E S T E

WRIT OF SUMMON

[SG/2019/LC/WS-III-en]

For:

1) International Provisional Representative of the Free Territory of Trieste – I.P.R. F.T.T. [*Rappresentanza Internazionale Provvisoria del Territorio Libero di Trieste – Začasno Mednarodno Predstavništvo Svobodnega Tržaškega Ozemlja – Provisorische Internationale Vertretung des Freien Territoriums Triest*] with *c.f.* (*codice fiscale* - Italian Fiscal Code) 90157930323, acting as legal subject delegated to represent and to defend, in all international and diplomatic forums or judicial proceedings, the rights and interests of the citizens *de jure*, residents, enterprises, and organizations of the Free Territory of Trieste and of other States (**document 1**: Instrument of Constitution, in the authentic English and Italian versions; Italian Fiscal Code), appearing before Court represented by its General Secretary and legal representative Paolo G. Parovel, (Italian Fiscal Code: PRVPLA44H19L424C), born in Trieste on June 19th, 1944, represented, pursuant to the mandate at the end of this act, by lawyer Walter Zidarich with Italian Fiscal Code (*codice fiscale*) ZDRWTR50P22L424, whose office, chosen as address for service, is in Trieste, in via San Francesco 11, where all legal acts and communications regarding this proceeding shall be sent or notified, also via fax, at No. 040/2410914 or via the Italian certified email system (p.e.c.) at walter.zidarich@pectriesteavvocati.it

2) Paolo G. Parovel, born in Trieste on 19 June 1944, with *c.f.* (*codice fiscale* - Italian Fiscal Code) PRVPLA44H19L424C, entering an appearance also for himself, bearing an interest as citizen *ex lege* of the present-day Free Territory of Trieste also recipient of Italian citizenship and for his roles of journalist and entrepreneur (**documents sub 2**), represented, pursuant to the mandate at the end of this act, by lawyer Walter Zidarich with *c.f.* (*codice fiscale* - Italian Fiscal Code) ZDRWTR50P22L424, whose office, chosen as address for service, is in Trieste, in via San Francesco 11, where all legal acts and communications regarding this proceeding shall be sent or notified, also via fax, at No. 040/2410914 or via the Italian certified email system (p.e.c.) at walter.zidarich@pectriesteavvocati.it

-claimants-

Versus:

1) the Italian Government, *c.f.* 80188230587, represented by the President of the Council of Ministers *pro tempore*, with registered office in piazza Colonna 370, Palazzo Chigi - 00187 Rome - presidente@pec.governo.it - with address for service at the Trieste district of the *Avvocatura dello Stato* (State legal service), in piazza Dalmazia 3, in the role of Government of the Italian Republic and for the authority and obligations at art. 120, second paragraph of the Italian Constitution, as well as for all powers and obligations deriving from its role of provisional administering Government sub-entrusted with the temporary civil administration of the Free Territory of Trieste;

2) The Commissariato del Governo nella Regione Friuli Venezia Giulia // Office of the Commissioner of the Government in Region Friuli Venezia Giulia, c.f. 80016870323, represented by the Commissioner *pro tempore*, with registered office in piazza dell'Unità 8 - 34121 Trieste - commissariato.fvg@mailbox.governo.it - with address for service at the Trieste district of the *Avvocatura dello Stato* (State legal service), in piazza Dalmazia 3, for the authority and obligations laid down in DPR // Decree of the President of the Italian Republic of 27 October 1954 (without number) and in art. 70 of Italian Constitutional Law No. 1/1963;

3) Prefettura di Trieste – Ufficio territoriale del Governo // Trieste Prefect Office - Territorial Office of the Government, c.f. 80017390321, represented by the Italian *Prefetto* (Prefect) *pro tempore*, with registered office in piazza dell'Unità 8 - 34121 Trieste - protocollo.prefts@pec.interno.it - with address for service at the Trieste district of the *Avvocatura dello Stato* (State legal service), in piazza Dalmazia 3, for the authority and obligations laid down in DPR // Decree of the President of the Italian Republic of 27 October 1954 (without number) and in art. 70 of Italian Constitutional Law No. 1/1963;

4) Ministero delle Infrastrutture e dei Trasporti // Italian Ministry of Infrastructures and Transport, c.f. 97532760580, represented by the Italian Minister *pro tempore*, with registered office in piazzale Porta Pia 1 – 00198 Rome - m_inf@pec.mit.gov.it, - with address for service at the Trieste district of the *Avvocatura dello Stato* (State legal service) in piazza Dalmazia 3, for its authority and obligations regarding the appointment of the President of the Trieste Port Authority and also the power to advise, supervise, and control the management of the same Port Authority, including its accounting and finances, as laid down in Italian Law No. 84/1994 and its amendments;

5) Autorità Portuale di Trieste, ora “Autorità Portuale di Sistema del Mare Adriatico Orientale” // Trieste Port Authority, now “Port System Authority of the Eastern Adriatic Sea”, c.f. 00050540327, represented by its President or Commissioner *pro tempore*, with registered office in via Karl Ludwig von Bruck – 34143 Trieste - pec@cert.porto.trieste.it - with address for service at the Trieste district of the *Avvocatura dello Stato* (State legal service) in piazza Dalmazia 3, for the authority and obligations as laid down in Italian Law No. 84/1994, and its amendments, as well as in art. 1 of paragraph 619 of Italian Law No. 190/2014, and its amendments;

6) Ministero dell'Economia e delle Finanze // Italian Ministry of Economy and Finance, c.f. 80415740580 represented by the Italian Minister *pro tempore*, with registered office in via XX Settembre 97 - 00187 Rome - mef@pec.mef.gov.it - with address for service at the Trieste district of the *Avvocatura dello Stato* (State legal service) in piazza Dalmazia 3, for its authority and obligations deriving from the power to advise, supervision, and control the management of the Trieste Port Authority as laid down in Italian Law No. 84/1994 and its amendments, as well as the management of the *Agenzia del Demanio* // Italian State Property Agency;

7) Agenzia del Demanio // Italian State Property Agency, c.f. 0634098100, economic public body of the Italian Ministry of Economy and Finance, represented by the Director *pro tempore*, with registered office in via Barberini 38 - 00187 Roma - agenziademanio@pce.agenziademanio.it - with address for service at the Trieste district

of the *Avvocatura dello Stato* (State legal service) in piazza Dalmazia 3, for its role in the management of the *Demanio // State Property*, including the maritime State Property, of the present-day Free Territory of Trieste, sub-entrusted to the temporary civil administration of the Italian Government;

8) Regione Friuli Venezia Giulia // Region Friuli Venezia Giulia, c.f. 80014930327, represented by the President *pro tempore*, with registered office in piazza dell'Unità 1 - 34121 Trieste - regione.friuliveneziagiulia@certregione.fvg.it - with address for service at the Trieste district of the *Avvocatura dello Stato* (State legal service) in piazza Dalmazia 3, for the authority and obligations as laid down in art. 70 of Italian Constitutional Law No. 1/1963;

9) Comune di Trieste // Municipality of Trieste, c.f. 00210240321, represented by the Mayor or Commissioner *pro tempore*, with registered office in piazza dell'Unità 4 - 34121 Trieste - comune.trieste@certgov.fvg.it - for the authority and obligations laid down Italian Law No. 190/2014, art. 1, paragraph 619, in its amendments, as well as in other legal instruments.

- Summone -

and requesting the acts of this legal action be notified also to the Prosecution under arts. 70, last paragraph, and 71, second paragraph of the Italian Code of Civil Procedure.

The procedure shall remain open to the free, voluntary intervention, against the defendants, of the natural and legal persons and of the subjects of international law who are willing to assess before Court the rights relating to the subject of this legal action, or deriving from reasons brought before Court as past of the same proceeding (art. 105, first paragraph, Italian Code of Civil Law) or having a personal interest in supporting the legal action of the claimants (art. 105, second paragraph, Italian Code of Civil Law).

For this reason, also the investors and Companies, from all Countries, whom are willing to enjoy, in compliance with its full and correct legal framework, the economic and financial advantages of the international Free Port of Trieste are entitled to join this legal action.

Premise.

The absolute singularity of the subject of this legal action requires an introduction to the reasons brought before Court.

This legal action request the Italian Civil Judge serving their duties in Trieste to determine the Constitutional and pre-Constitutional legal force, effectiveness, and prevalence, in the Italian legal order, of specific laws that were never repealed and, thus, are indeed still in force, as well as to determine the impossibility to enforce, or the inapplicability thereof, of divergent legal provisions regarding the same subject, as well as of other laws included in the Italian legal order which rank lower in the hierarchy of sources of domestic Italian law.

Said laws of the Italian legal order, of which the Court must assess the Constitutional and pre-Constitutional legal force, effectiveness, and prevalence on other laws on force,

are indeed laws that enforce in the Italian legal order the international and Constitutional obligations of the Italian Republic and of its Government respect to the present-day Free Territory of Trieste, respect to its international Free Port, respect to all States holding related and consequential rights, including the Italian State, and respect to their companies, which are the rights established with the Treaty of Peace of 10 February 1947 between the Allied and Associated Powers with Italy and the pertinent Memorandum of Understanding of 5 October 1954 (see following points 29 to 35).

Since it is international obligations established before 1 January 1958, they do also outrank the legislation of the European Union (art. 234 TEEC, art. 307 TEC, art. 351 TFEU), as well as domestic Italian laws; furthermore, for the same reason, E.U. legislation does not conflict with the legal status of the Free Territory of Trieste and of its international Free Port (see following point 46).

Note: this is also the reason why Community Law does not and cannot include, among the free zones of its Member States, thus within European custom territory, the international Free Port of the Free Territory of Trieste, sub-entrusted to the provisional administration of the Italian Government; instead, the E.U. grants it special derogations from the Community obligations regarding the management of Italian State ports (see section K, pages 47-52 and section L, pages 52-56 of the review of laws attached to this writ of summon as document 3).

This legal action for demonstration is brought forward in compliance with the rights and interests of the claimants as well as of public interest, to obtain that the Court expresses itself on legal certainty as for the legal force, effectiveness, and prevalence of the aforementioned legal obligations on other domestic laws in force within the Italian legal order, especially in view of the harmful enforcement of conflicting, lower-ranking provisions of the same legal order.

Therefore, this request to the Court does exclusively refer to the judicial confirmation of the existence of a conflict of laws that exists linearly and exclusively within the Italian legal order and, consequently, falls under the legitimate and dutiful jurisdiction of the addressed Italian Judge. Whom, on the other side, is not competent, and hence not addressed, to decide about international law, nor about the notorious system of doctrinal and political exercises, which have no relevance in this lawsuit.

Furthermore, this legal dispute cannot be deferred to the special arbitration procedures on the interpretation and enforcement of the Treaty of Peace envisioned and established within the Treaty itself (at arts. 86 and 87; at Annex VI art. 36; at Annex VIII art. 24; at Annex IX Art. 7; and at Annex X art. 19) because this legal dispute revolves on a conflict within the domestic Italian legal order.

This is why, for the purposes of this legal action, for brevity and completeness, we recall in full the pertinent, special *corpus juris* of Italian law on this matter by lodging and attaching to this writ of summon the analytic review of laws No. SG/2017/LC/M-V-en (document 3).

The Free Territory of Trieste – also Territorio Libero di Trieste, Svobodno Tržaško Ozemlje – is established by the Treaty of Peace between the Allied and Associated Powers with Italy signed in Paris on 10 February 1947 and in force since 15 September 1947; since then, under the Treaty, the Free Territory is established as a new State in the first phase of the Provisional Regime of Government regulated at Annex VII of the

same Treaty. This first phase of the Provisional Regime is still in force through the special trusteeship mandate sub-entrusted by the primary administering Governments to a sub-administering Government that exercises it ever since.

The Treaty of Peace with Italy of 10 February 1947 is a multilateral legal instrument in force within the International legal order fully implemented also within the Italian legal order and, therefore, itself a Law of the Italian Republic by virtue of the Legislative Decree of the Provisional Head of State No. 1430/1947, ratified with Italian Law No. 3054/1952, which implements and enforces, without reserves, the 1947 Treaty of Peace in the Italian legal order granting it a pre-constitutional and Constitutional rank higher than that of any other Italian law in force (art. 2 of the Legislative Decree of the Provisional Head of State No. 1430/1947; art. 10 first paragraph, art. 117 first paragraph, and art. 120, second paragraph of the Italian Constitution).

Note: the rights and obligations established under the Treaty of Peace for States that were later dissolved are to be considered transferred to their successor States.

The Treaty of Peace thus dutifully and completely implemented as a law of the Italian Republic within the domestic Italian legal order in force does also establish and regulate the international Free Port of the Free Territory of Trieste at arts. 34 and 35 of its Annex VI (*Permanent Statute of the Free Territory of Trieste*), at art. 2, fourth paragraph of its Annex VII (*Instrument for the Provisional Regime of the Free Territory of Trieste*), and with all provisions of Annex VIII (*Instrument for the Free Port of Trieste*).

Note: the Free Port is an uninterrupted, historical, and current right of Trieste, starting with the Patent that established in on 18 March 1719, continuing with the 1889-1891 acts on its custom free zones (free zones), being confirmed in its status of free port in 1927, and finally internationalization by virtue of UNSC Resolution S/RES/16(1947), enforced with that Treaty of Peace since 15 September 1947.

The present-day Free Territory of Trieste consists of its Capital city, Trieste, of the International Free Port and of five smaller Municipalities, it borders with Italy and Slovenia, this this is its asset since 1992, by virtue of the Resolutions with which the United Nations recognized the neighbor, independent Republics of Slovenia and of Croatia within their present borders established with plebiscites.

Note: in particular, it is UNSC and UNGA Resolutions S/RES/753(1992), A/RES/46/238, S/RES/754(1992), A/RES/46/236, S/RES/777(1992), and A/RES/47/1 that make it impossible enforcing (art. 30.3 of the Vienna Convention on the Law of Treaties, ratified by Italy with Law 112/1972; art. 10, first paragraph of the Italian Constitution) the provisions of the 1947 Treaty of Peace in an accessory zone of the Free Territory of Trieste, without implications for the legal status of the Free Territory's main zone and its international Free Port (see the legal review document 3, pages 1-2 and 68-69).

The Provisional Regime of the present-day Free Territory of Trieste is a special trusteeship of the United Nations Security Council; the primary mandate is entrusted, since 15 September 1947, to the responsibility of the Governments of the United States of America and of the United Kingdom of Great Britain and Northern Ireland, vested with all powers of Government, administration, and jurisdiction (1st Proclamation, establishing the Free Territory, of 15 September 1947). Government authority includes the representation of the State under provisional administration in foreign relations.

Notes: the difference between the special trusteeship mandate regarding the Free Territory of Trieste, placed under the direct control and responsibility of the UN Security Council, and ordinary trusteeship mandates, placed under the authority of the UN Trusteeship Council, consists in the fact that the former involves a sovereign State established at the coming into force of the 1947 Treaty of Peace, while the latter applies to territories that have yet to become independent. This is why the administration of the Free Territory of Trieste cannot be entrusted to other States, but only to the responsibility of their Governments, or to an international officer acting as Governor on behalf of the UNSC. For further details, see section A, point 3, pages 9-10 of the review of laws attached to this writ of summon as document 3.

Furthermore, when it comes to the contextual use of the word “administration” it is important considering that its meaning refers to the legal institution of trusteeship, which includes the indivisible powers of Government, administration, jurisdiction, and representation in foreign relations, not the mere exercise of ordinary administrative powers.

Since October 1954, the primary administering British and U.S. Governments have sub-entrusted the temporary civil administration and the military defense of the present-day Free Territory of Trieste to the responsibility of the Italian Government and of NATO respectively; both sub-mandates are still in full force.

Note: as further evidence of the legal force and effectiveness of this legal title, refer also to: U.S. Department of State, Treaties in Force – A List of Treaties and Other International Agreements of the United States in Force on January 1, 2019.

It follows that, since 1954, in compliance with the special trusteeship mandate sub-entrusted to it, the Italian Government exercises two roles at the same time: its original role of Government of the Italian Republic, and the special role delegated upon it as temporary civil administering Government of the present-day Free Territory of Trieste.

The special trusteeship sub-mandate regarding the civil administration of the present-day Free Territory of Trieste entrusts to the responsibility of the Italian Government the exercise of the same powers of Government, administration, and jurisdiction that had previously been exercised by the previous British-U.S. temporary administering military Government. The powers and obligations deriving from the special trusteeship mandate sub-entrusted to the Italian Government, for instance, include the representation of the State under its provisional administration in foreign relations (see document 3, section A, point 3, pages 9-11 and section K, point 1, pages 48-49)

Pursuant to art. 2 of the Decree of the Provisional Head of State No. 1430/1947 and to art. 10, first paragraph, of the Italian Constitution, this special trusteeship sub-mandate is implemented and enforced within the Italian legal order with the Decree of the President of the Italian Republic of 27 October 1954 (without number), which appoints, for this purpose, a *Commissario Generale del Governo italiano per il Territorio di Trieste* // Commissioner General of the Italian Government for the Territory of Trieste, and delegates him to exercise the special trusteeship sub-mandate with the pertinent legislative, administrative, and jurisdictional powers, as well as placing him under the direct authority of the President of the Italian Council of Ministers.

At article 5, the special trusteeship mandate of temporary civil administration sub-entrusted to the responsibility of the Italian Government by the Governments of the United Kingdom and of the United States includes the obligations to maintain the international Free Port of Trieste in general accordance with the provisional at articles 1 to 20 of Annex VIII of the Treaty of Peace, which revolve on the direct functional roles of the administering Government. That article does not prevent or influence the enforcement of the following articles 21 to 24, for that falls under the competences of the international Community of States instead (see following point 38).

Articles 1 to 20 of Annex VIII of the Treaty of Peace establish the legal status and constraints of destination and use of the international Free Port, its administering authority (a Director of the Free Port), its movable and immovable properties, its

permanent free zones, the procedure to extend its free port regime to new areas, its tax system, and the obligations of both the Free Territory and other States respect to it.

Since 1954, the Italian Government does also exercise the legislative, administrative, and judicial powers deriving from the special trusteeship mandate sub-entrusted to its responsibility through the aforementioned Commissioner General and other bodies or officers of the Italian Republic. With Italian Constitutional Law No. 1/1963 the exercise of the powers of the Commissioner General was confirmed once again, and split between a Commissioner of the Government in Region Friuli-Venezia Giulia, a Prefect, and the Region itself, all of which, for their role, are under the direct authority of the Italian Presidency of the Council of Ministers (see following point 36).

This sorting regards the exercise of the powers deriving from the special trusteeship, therefore, which includes legislative powers and not only administrative ones, on behalf of the Italian Government, responsible for the temporary civil administration of the present-day Free Territory of Trieste; Italian Constitutional Law 1/1963 entrusts to the Commissioner of the Government in the Region the powers that are not being delegated to the Region itself.

This means that, by virtue of an Italian Law of Constitutional rank, the enforcement of legislative powers on the international Free Port on behalf of the sub-administering Italian Government in compliance with the 1947 Treaty of Peace and the Decree of the President of the Italian Republic of 27 October 1954 (without number) remains assigned, as an exclusive competence, to the Commissioner of the Government in the Region, who is under the direct authority of the Presidency of the Council of Ministers (see document 4: *Decreto commissariale* // Commissarial Decree No. 19/8-33/2015).

Since 1994, the functional and financial management of the Port of Trieste, including the customs port and the international Free Port, is provisionally assigned to an Italian Port Authority subject to the supervision and control of the Italian Ministry of Infrastructures and Transport, of the Italian Ministry of Economy and Finance, and of the Italian Court of Auditors, named “*Autorità Portuale di Trieste*” (APT) // “Trieste Port Authority” renamed “*Autorità Portuale di Sistema del Mare Adriatico Orientale*” (APdSMAO) // “Port System Authority of the Eastern Adriatic Sea” in 2016, and, since 2018, also in charge of the management of the nearby Italian customs port of Monfalcone.

The Italian Port Authorities are established under Italian Law 84/1994 and its amendments (of 2016, 2017, and 2018); when it comes to the exercise of the roles deriving from the special trusteeship mandate sub-entrusted to the responsibility of the Italian Government and regarding the temporary civil administration of the Free Territory of Trieste, this law expressly reserves (art. 6, paragraph 12) decisions on the administrative organization of the international Free Port of Trieste to a separate Decree, to be issued by the Italian Government through the competent Ministries.

That Decree was issued in July 2017, confirming once again the legal force and effectiveness of the obligations of the Provisional regime of Government of the Free Territory of Trieste, sub-entrusted to the responsibility of Italian Government as a special mandate of temporary civil administration (see following point 47).

As part of the exercise of the duties regarding the temporary civil administration of the Free Territory of Trieste, which is sub-entrusted to the responsibility of the Italian Government under a special trusteeship mandate, all bodies, officers, and employees of the Italian State in charge of it, including those vested with the administration of justice, are bound to respect and enforce both the laws enforceable in the Free Territory and all pertinent Italian laws, and they remain subject to the responsibilities established at art. 28 of the Italian Constitution.

F A C T

1. On 23 December 2014, certain parliamentarians from Trieste, who were also members of the Governing party of the time, were able to have the Italian Parliament amend art. 1 of Italian Budget Law No. 190/2014, in force since 1 January 2015, by including in it the current paragraphs 618, 619, and 620, despite the opinion of the *Commissione istruttoria* // Commission for preliminary studies of the Italian Senate that rejected them as inadmissible, and regardless of the reasoned opposition of other Triestine parliamentarians, including the current President of the defendant Region Friuli Venezia Giulia (documents 5 and 6: Chamber of Deputies of the Italian Parliament, Fedriga-Savino agenda; pertinent abstract from the minutes of the seating of 22 December 2014).

2. The inclusion of these three paragraphs in the Italian Budget Law – which had already been attempted and rejected in 2012, with similar amendments (document 7) – simulated the legal feasibility of a massive housing and building speculation at the expenses of unavailable public port assets, which are placed under constraints established with upper-ranking laws in force, namely the regime, ownership, and permanent use of the international Free Port of Trieste, as well as subject to the deriving rights of all States and of their enterprises (see following point 40.f).

3. These unavailable public port assets form the vast majority of the areas and assets of the Northern Free Port, also called “*porto vecchio*” (old port) for historical, thus not for functional reasons, and the simulation of the legal feasibility of the real estate operation involving them has been planned gradually, through some years, with two simultaneous pretenses promoted by political circles and by the media, in particular:

– with the pretense that the Northern Free Port became unsuitable for port uses; this was achieved closing its railways, diverting the funds needed for its maintenance and infrastructures (which do also include a new logistics platform), expelling concessionaire enterprises, and preventing new concessions in the area;

– with the pretense that to extend the international Free Port regime to new areas it is necessary, and legal, removing it from its pre-existing areas (see following point 48.a).

4. Indeed, paragraphs 618, 619, and 620, surreptitiously included for that purpose in art. 1 of Italian Law 190/2014, envision:

– (618) the relocation of the international regime of the free zones from the near totality of the Northern Free Port to areas yet to be identified;

– (619) the removal from State property of the assets and immovable properties that are consequently taken away from the Free Port;

- (619) the transfer of the aforementioned assets and immovable properties removed from State property to the available assets of the Municipality of Trieste, which is in charge of changing their destination of use to “urban” and of selling them on the real estate market, transferring all profits to the Port Authority, for it to reinvest them in new Free Port facilities;
- (620) the decision on the use of the remaining State-owned areas of the Northern Free Port (“*Porto vecchio di Trieste*” or “Old Port of Trieste” in the Law) through regulations to be issued by the Port Authority.

It results that those operations are carried out under the responsibility of the Commissioner of the Government in the Region, of the Mayor of Trieste, and of the President of the Port Authority, together and with other competent authorities. In particular, the additional authorities involved are the State Property Agency and the other defendants in this lawsuit.

5. The legal provisions so included in the Italian legal order since 1 January 2015 with paragraphs 618, 619, and 620 of Italian Law No. 190/2014 are all unenforceable, or inapplicable, due to conflicting with opposite provisions of laws, in force, that rank higher in the hierarchy of sources of Italian law; it is the laws that recognize and implement in the Italian legal order the international instruments establishing and regulating the international Free Port of Trieste as well as the consequent international and Constitutional obligations of the Italian Republic and of the Italian Government on the same subject (see following point 48).

6. Despite this manifest, radical legal condition of unenforceability of paragraphs 618, 619, and 620 of art. 1 of Italian Law No. 190/2014 within the Italian legal order, the local bodies in charge of the sub-mandate of temporary civil administration of the present-day Free Territory of Trieste have pushed for the enforcement of those laws both with the Decree of the Commissioner of the Government registered as No. 19/8-5/2016 (**document 8**) and with the registration of ownership and inclusion in the Land Registry Book of those unavailable State and port assets in the name of the Municipality of Trieste.

7. Therefore, with Land Registry Decree GN 12394/16 (in force since 31 December 2016), the State-owned, unavailable port assets in question were registered in the Land Registry Book, for the first time, with Land Registry Decree GN 12394/16 (in force since 31 December 2016) in the name of the Municipality of Trieste within the following, new *Partite Tavolari* // Land Registry Particles: **No. 90645 in Trieste, 1st land registry body, No. 7538 in Gretta, 1st land registry body, and No. 4670 in Barcola, 1st land registry body.**

8. The Decree ruling this registration (**document 9**) requests these properties be listed as owned by Municipality of Trieste, however, it does not mention or register the legal constraint to sell them transferring all profits to the Port Authority for it to re-invest them in new areas of the international Free Port.

9. This is why, both the procedure for the completion of the Land Registry Book, No. COMP 4/2016, and the Land Registry decree registered under GN 12394/16 were, and

still are, protested with Land Registry disputes revolving on the unenforceability of the ownership titles, on multiple procedural irregularities, and on the omission to register the compulsory sale of the same assets. Those Land Registry disputes were re-opened multiple times due to being rejected for unacceptable reasons, and they are still pending under GN 8189/19, 8190/2019 and GN 8878/19 (***documents 10, 11, and 12, in Italian***).

Note: the Land Registry System established by Austria is still in force in Trieste; it is a civil act in the form of a voluntary process, which entrusts a magistrate, the *Grundbuchrichter* (*Giudice tavolare* // Land Registry judge) with assessing the legitimacy of the documentation serving as base for the request of registration in - or cancellation from - the *Grundbuch* (*libro fondiario* // Land Registry Book), a formation of the Court to settle disputes regarding the acts of the Land Registry judge, and a Court of Appeals to decide, upon consultation of the President of the Court, about procedures for the very first registration of assets in the Land Registry Book. Consequently, these decisions are effective on the keeping go the Land Registry Book, because they give raise to the presumption of the right the registration of which was requested and obtained, however, they do not constitute *res judicata*, because that can only be obtained through a civil legal action for determination.

10. The bodies co-responsible of pushing for the enforcement of these unenforceable amendments are also responsible of the systematic breach of the same provisions, because they simulate that paragraph 619 of Italian Law No. 190/2014 assigns the public port assets in question to the Municipality as fully and freely available assets, instead of under a binding mandate to sell those assets and transfer all revenues to the Port Authority. This simulation is favored by the omitted and repeatedly denied registration of that legal constraint in the Land Registry Book (*see documents 9 and 10*).

11. The Municipal administration in office performs this simulation systematically, making promises and plans, by issuing official acts, and by ruling expenditures on those assets on its own behalf and on that of third parties (acts including, but not limited to: construction works, concessions, tenders, loan agreements, etc.) amounting to dozens of million Euro; by doing so, this administration is unduly distracting significant functional and financial resources not only to the Municipality itself, but also to the Port Authority. It is illegitimate acts and expenditures committed by the Municipality and not prevented by the Port Authority, despite having been notified the oppositions before the Land Registry Office and also warning against committing violations of the law.

12. Therefore, the only logical justification to those acts and expenditures, ordered or committed recklessly by the Municipal administration and allowed by the Port Authority in manifest breach of the law, seems to be the intention to prevent legal actions for the re-establishment of the rule of law - regime and function - within the international Free Port by surreptitiously occupying that area with illegitimate works, constructions, concessions, and rents for the advantage of third parties, the good faith of which would be easy to assume (arts. 1147, 1337, 1358, 1366, 1375, 1324, *Codice Civile* // Italian Code of Civil Law).

13. It results that the aforementioned, main breaches of the Decree of the Provisional Head of State No. 1430/1947, as well as the subordinate breaches of paragraph 619 of art. 1 of Italian Law No. 190/2014 are either committed or allowed by public officers vested with the duty to prevent them, and this behavior constitutes a breach of the international and Constitutional obligations of the Italian Republic and of the Italian Government at the expenses of all States entitled with the right to use or manage the international Free Port, including the Italian State and the port's owner, the Free Territory of Trieste, and also at the expenses of their enterprises.

14. In order to prevent the opening of international disputes, both the sub-administering Italian Government of the present-day Free Territory of Trieste and the Parliament of the Italian Republic have taken care, as early as in 2017, to confirm the legal force, superior rank in the hierarchy of the sources of Italian law, and the effectiveness of their international and Constitutional obligations on this subject with two specific instruments of law (see following point 47), in particular:

– the sub-administering Italian Government with the inter-ministerial Decree of 13 July 2017, “*Organizzazione amministrativa per la gestione dei punti franchi compresi nella zona del porto franco di Trieste*” // “Administrative organization for the management of the free zones included within the area of the Free Port of Trieste” issued by the Italian Ministry of Infrastructures and Transport together with the Italian Ministry of Economy and Finance, in compliance with their obligations established at art. 6, paragraph 12 of Italian Law No. 84/1994 and with the sub-mandate of temporary civil administration of the Free Territory of Trieste that enforces the 1947 Treaty of Peace;

– the Parliament of the Italian Republic with paragraph 66 letter b) of art. 1 of the Italian Budget Law No. 205/2017, in force since 1 January 2018, which does directly prevent the enforcement of paragraphs 618, 619, and 620 of Italian Law No. 190/2014 by expressively subordinating the envisioned transfer of the international Free Port regime to the upper-ranking provisions of the 1947 Treaty of Peace, implemented in the Italian legal order with the Decree of the Provisional Head of State No. 1430/1947, ratified with Italian Law No. 3054/1952, that prevent such measures.

15. Despite the clarifications and corrections provided by the Italian Government and by the Italian Parliament, the local bodies responsible of the violations examined so far have recklessly continued to commit them, and even to aggravate them with manifestly anti-economic interventions, giving raise, in Trieste, to a situation of material damage and public illegality with extraordinary institutional, legal, and economic relevance, suggesting that the aforementioned allegations at point 12 are indeed correct.

Find attached, as a documental evidence of the most relevant facts, as we reserve to submit further evidences, a full copy of the criminal complaint dated 25 October 2019 (**document 13, in Italian**) that Paolo G. Parovel, claimant, has personally presented in his role of investigative journalist informed about the facts.

That complaint regards a recent, illegitimate twenty-year concession that the Municipal Administration granted, on those public port assets, to a private company established for the purpose, as part of an operation worth about EUR 64.3 million, including construction works worth EUR 11.7 million, 4.5 millions of which paid by the Municipality, which in exchange receives from the concessionaire company a ridiculous yearly fee of EUR 80,000 on paper, which in reality amount to mere EUR 5,000.

16. The direct and indirect responsibilities of the defendants in regard to the breaches of laws and rights described above may be considered as follows:

a) as for the enforcement of paragraphs 618, 619, and 620 of art. 1 of Italian Law 190/2014 despite their manifest unenforceability, first in their original and then in

their amended form, both of which conflict with upper-ranking laws, the main liable bodies, following the competences placed upon them by these three paragraphs, are: the Commissioner of the Government in Region Friuli Venezia Giulia, the State Property Agency, the Municipality of Trieste, Region Friuli Venezia Giulia, and the Port Authority of Trieste;

b) as for the violation of the legal constraint to sell these immovable properties, transferring the profits to the Port Authority established at paragraph 619 of Italian Law 190/2014, it results that the main responsible bodies are:

– the Municipality of Trieste, intended as its Municipal Administration, which is responsible of presenting the request to register these State properties pursuant to manifestly unenforceable provisions and omitting the constraint to sell them, and also of planning and committing, on the same assets, illegitimate public acts and expenditures simulating them to be legitimate, thus causing severe economic and functional damage to the Municipality itself and to the Port;

– the Port Authority in charge of managing the port, for allowing the aforementioned illegitimate public acts of the Trieste Municipal Administration despite having the legal obligation of preventing them to protect the patrimony and the functional activities of the port placed under its control, and also for omitting, so far, to include in its own budget the envisioned profit it should receive from the Municipality after it sells the port assets it has received under a legal constraint to do so.

c) the liabilities of the Italian Government, both as Government of the Italian Republic and as provisional Government sub-entrusted with the special trusteeship mandate for the temporary civil administration of the present-day Free Territory of Trieste and of its international Free Port, consist:

– in failing to make it clear to the Italian Parliament during a vote (2014) that including paragraphs 618, 619, and 620 in the 2015 Budget Law was to give raise to a conflict with upper-ranking laws in force, which implement in the Italian legal order international and Constitutional obligations of the Italian Republic and of the Italian Government;

– in failing to control the doing of local bodies and officers that are liable for the aforementioned breaches of the law;

– in failing, so far, to re-establish the rule of law on this subject by acting in accordance with both the powers and obligations it has accepted under the 1954 special trusteeship mandate sub-entrusted to its responsibility and those vested upon it under art. 120 second paragraph of the Italian Constitution: *«Il Governo può sostituirsi a organi delle Regioni, delle Città metropolitane, delle Province e dei Comuni nel caso di mancato rispetto di norme e trattati internazionali [...] ovvero quando lo richiedono la tutela dell'unità giuridica [...] e in particolare la tutela dei livelli essenziali delle prestazioni concernenti i diritti civili e sociali, prescindendo dai confini territoriali dei governi locali.»* // «The Government can act for bodies of the regions, metropolitan cities, provinces and municipalities if the latter fail to comply with international rules [...]

whenever such action is necessary to preserve legal [...] unity and in particular to guarantee the basic level of benefits relating to civil and social entitlements, regardless of the geographic borders of local authorities.»

There responsibilities of the Italian Government are therefore exemplified, in particular, in the roles of:

– the President of the Italian Council of Ministers, for the double role of head of the Government of the Italian Republic and of head of the Government sub-entrusted with the administration of the present-day Free Territory of Trieste;

– the Ministry of Infrastructures and Transport of the Italian Government, for its powers and obligations regarding the appointment of the President of the Port Authority of Trieste and its power to advise, supervise, and control that Port Authority's accounting and finances (Italian Budget Law 84/1994 and its amendments);

– the Ministry of Economy and Finance of the Italian Government, for the authority and obligations deriving from its power to advise, supervise, and control the management of the Trieste Port Authority (Italian Budget Law 84/1994 and its amendments);

– the Commissioner of the Italian Government in Region Friuli Venezia Giulia, who is responsible for granting the enforcement of the specific international and Constitutional obligations in Trieste, as well as being under the direct authority of the Presidency of the Council of Ministers (Decree of the President of the Italian Republic of 27 October 1954, without number, and art. 70 of Italian Constitutional Law 1/1963);

– the Prefect of Trieste, as special body representing the sub-administering Italian Government in the territory (Decree of the President of the Italian Republic of 27 October 1954, without number, and art. 70 of Italian Constitutional Law 1/1963).

17. To provide a correct perspective of the nature and entity of the damages consequent to the aforementioned breaches of the law on the holders of specific rights and on the community, it is important specifying:

– that the international Free Port of Trieste is a primary source of economic development for the people of the present-day Free Territory of Trieste and, even in its present conditions, namely the severe limitation of its operational potential due to the aforementioned breaches of law, it directly provides work to more than 80 enterprises, including international ones, and to more than 10,000 people, as well as generating a rather relevant quantity of indirect employment.

– that the Northern Free Port, also called “old port” for historical reasons, is one of the two main permanent free zones of the international Free Port of Trieste, it has a surface of 97 hectares, and it has a 3 km seafront, plus 2.7 km of piers and docks, it is provided with warehouses, open spaces, breakwaters, and 1.25 km of free seafront, expected to host a new logistics platform with a surface of 40 hectares under the Decree of the President of the Italian Republic No. 714/1968 (art. 6 and Chart A), and under the General Regional Urban Plan, both in force (documents sub 14: panorama picture; chart

A of the Decree of the President of the Italian Republic No. 714/1969; pertinent abstract from the *P.U.R.G. // General Regional Urban Plan*);

– that the facilities of the Northern Free Port are fully connected with an internal railway network measuring 22.4 km, including a big terminal right next to the Trieste Central Station, as well as being directly connected with the city’s railways and, through a specific railway ring tunnel, also to the Southern Free Port, also called “new port” for the same historical reasons.

– that overall the real estate value of the State-owned port assets of the Northern Free Port amounts to EUR 1.5 to 3 billion, however, their removal from port use envisioned by the aforementioned, unenforceable laws would cause permanent economic and functional damages worth even more, in facts incalculable damages, to the development of the direct and indirect economic activities of the international Free Port.

18. The claimants in this proceeding are or represent, upon delegation, other subject who share the individual and collective fundamental rights that are either seriously harmed or threatened by the aforementioned actions and omissions of the defendants, which give raise to, in particular:

– the illegitimate subtraction of highly relevant, functional and patrimonial resources to the international Free Port of Trieste, which is a primary, direct and indirect, current and potential source of wellbeing for the people through entrepreneurship, as well as a source of direct and indirect of subordinate work;

– the illegitimate subtraction of relevant, functional, and patrimonial resources to the Municipality of Trieste, thus reducing its official duties, namely, the care for the interest and the promotion of the wellbeing of the people under its authority, especially when it comes to the dramatic increasing of requests for social assistance;

– the consequent, proportional decrease, thus the unfair deprivation, of the citizens’ right to work and to receive social assistance (arts. 35, 36, 37, and 38 of the Italian Constitution);

– the breach, which endangers and hampers the public order, of the rule of law because all bodies of the Italian Republic are bound to act according to the law, exercising their authority at their own discretion, but not arbitrarily (art. 12, *preleggi // general principles of the Italian Civil Code*);

– the breach, which endangers and hampers the public order, of the rule of law and of public faith, basic principles of the public acts regarding ownership as part of the Land Registry system in force in Trieste;

– a state of legal uncertainty and of risk for third parties in good faith (organizations, professionals, businesses) as they are or may be involved in the illegitimate public act of the Municipal Administration regarding the unavailable port assets that were transferred to the Municipality itself by the aforementioned unenforceable laws, including the

obligation to sell these assets on the real estate market and transfer all revenues to the Port Authority;

– the violation of the ownership rights, of the constraints of use, and of the rights of use established on the permanent free zones of the international Free Port of Trieste for the advantage of all States, including the Italian Republic, of their owner, the Free Territory of Trieste, and of all of their enterprises by upper-ranking laws, in force;

– the severe harm to public order caused by the reckless, open, continuing drafting of illegitimate acts by public officers and authorities legally obliged to prevent these.

19. Furthermore, it is dutiful recalling that the nature of the extraordinary danger and harm caused by the aforementioned, abnormal behaviors of the responsible bodies, authorities, and public officers does not only affect common good, the authorities themselves, all third parties involved, the community, and all citizens and residents, but also on the authorities summoned before Court as part of this legal action. This status of damaged subjects would therefore justify not their resistance before Court, but their spontaneous withdrawal from litigation in self-defense, if not their willing intervention to support the reasons brought before Court by the claimants.

20. All previous legal actions initiated by the same claimant aimed at preventing or at promptly interrupting the aforementioned breaches of laws and rights that are committed by public officers, and were all based on the instruments for the protection of the rule of law provided by the Italian Code of Criminal Law, by the Italian Tax law Code and by the Land Registry legislation in force in Trieste, as well as being supported notifying to the responsible bodies and authorities detailed warning against further breaches of the law.

However, objections based exclusive on those instruments have not lead to conclusive results yet, and at times they were also rejected with disputable acts, yet, this ultimately confirmed the necessity and the opportunity of initiating this legal action for determination before an ordinary civil Court.

21. An example of this is the opinion of a certain Land Registry Judge – who, in his role of ordinary judge, does also serve as President of the Civil Section of the Court of Trieste – about the renewed request to register in the Land Registry Book the constraint that binds the Municipality to sell the port assets assigned to it in order to rebuild the patrimony of the port.

Indeed, that Land Registry Judge rejected said request with his Decree sub GN 7065/19 of 3 July 2019, claiming that requests alike are not expected to grant public faith since those legal constraints are already in force by their own nature, *«as it is not expected that procedures initiated at the Land Registry Office be used as cautionary measures for alleged superior public interest at discretion of the addressed Judge, since it is other Authorities to be vested of this task»*.

22. Furthermore, the subject of this legal action is not of the kind that falls under the competences of Administrative Courts, because it is a legal action for demonstration aiming, in accordance with art. 24, first paragraph, and art. 113, first paragraph of the

Italian Constitution, at the consolidation of legal certainty due to a violation of the rule of law and consequent to present and factual interests of the claimants and of public authorities, as well as based in the necessity and urgency to obtain, by re-establish the rule of law and legal certainty, the end of behaviors that are absolutely illegitimate and with which certain public authorities are causing relevant damages and risk while misusing State properties.

On this subject, see also the principles outlined by the Italian Court of Cassation in its judgments No. 204/2004 and No. 191/2006, which do respectively rule as illegitimate under Constitutional law the exclusive jurisdiction of administrative Courts in disputes regarding «the acts, measures, and behaviors» instead of «the acts and measures» of public administrations and in disputes regarding “behaviors” of public authorities regardless of the lack of power to do so, thus acting on merely factual grounds.

23. Consequently, there is no doubt that this specific legal action constitutes an example of the interest described by the Italian Supreme Court of Cassation, 1st Civil branch, in its recent judgment No. 16162/2015: *«the one initiating a legal action for determination [of the existence of a right] or lack thereof, must hold the current and concrete interest to obtain a valuable response, legally relevant, and impossible to obtain without the intervention of the Court, by the mean of removing a state of objective uncertainty as for the existence of the legal relationship deduced within the lawsuit».*

24. This legitimately initiated legal action does therefore fall, in accordance with the general principle established at art. 2 of Italian Law No. 2218/1865, confirmed in legal force at art. 1, paragraph 1 of the Legislative Decree No. 179 of 1 December 2009, within the recognized jurisdictional competences of ordinary Courts, in particular, *«all questions revolving on a civil or political right, regardless to how it concerns public administration, and whenever the executive or administrative authorities issue measures about it».*

25. Finally, this legal action before the Italian civil judge serving their duties in the present-day Free Territory of Trieste, the temporary civil administration of which is sub-entrusted to the responsibility of the Italian Government by the Governments of the United States and of the United Kingdom in their role of primary administering Governments on behalf of the UN Security Council, is not only a correct and legitimate choice, but also one that, by requesting a review of domestic law, does reasonably avoid, although without preventing it, the activation of the general and special forms of protection established under international law.

And, by doing so, it responsibly supports the same opportune choice as did the Italian Government and of the Italian Parliament to issue (2017) the amendments correcting and clarifying previous laws on the matter (see following point 47).

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26. The international Free Port of Trieste is established and regulated by the Treaty of Peace between the Allied and Associated Powers and Italy, signed in Paris on 10 February 1947 and in force since 15 September 1947, which is a multilateral international legal instrument implemented and enforces also in the domestic legal order

of the Italian Republic and of all other States that signed, ratified, or recognized it by ratifying other legal instruments, as well as by their eventual successor States.

27. It follows that the legal existence of the international Free Port of Trieste depends on the legal force of its establishing Treaty, which binds its Signatories (*pacta sunt servanda*) and, being a multilateral legal instrument, cannot be repealed, amended, or made impossible to enforce by their domestic laws, nor by successive Treaties signed by only a part of its Signatories, and not even by merely factual situations (arts. 26, 27, and 30 of the Vienna Convention on the Law of Treaties, ratified in the Italian legal order with Law No. 112/1972; art. 10, first paragraph of the Italian Constitution).

28. The provisions of the Treaty of Peace of 10 February 1947 that, since 15 September 1947, establish and provide for the international Free Port of Trieste are: art. 34 – Free Port of Annex VI (Permanent Statute of the Free Territory of Trieste), art. 2 fourth paragraph of Annex VII (Instrument for the Provisional Regime of the Free Territory of Trieste) which enforces all compatible provisions of the Permanent Statute during the current Provisional Regime of Government, and Annex VIII as a whole (Instrument for the Free Port of Trieste).

29. The Treaty of Peace of 10 February 1947 between the Allied and Associated Powers with Italy is fully implemented within the legal order of the Italian State with a rank superior to that of any other law in force by virtue of the Legislative Decree of the Provisional Head of State No. 1430/1947 [Ordinary supplement to the Official Gazette of the Italian Republic No. 295 of 24 December 1947] which implements it fully and completely, without reserves, and was ratified within the successive and current domestic Italian legal order with Law No. 3054/1952 [Official Gazette of the Italian Republic No. 10 of 14 January 1953].

30. The primacy of the Legislative Decree of the Provisional Head of State No. 1430/1947 ratified with Italian Law No. 3054/1952 on all other laws in force within the Italian legal order is established and confirmed:

– at its own art. 2, which establishes that the legal measures needed to enforce the 1947 Treaty of Peace must be issued, upon approval of the Italian Council of Ministers, with Legislative Decrees of the Head of State, «*also derogating from the laws in force*».

– by the Constitution of the Italian Republic, – which came into force on 1 January 1948 within the new borders of the “*one and indivisible*” Republic (art. 5), which had already been defined, in compliance with the 1947 Treaty of Peace, by the Legislative Decree of the Provisional Head of State No. 1430/1947 – at its art. 10, first paragraph, art. 117, first paragraph, and art. 120, first paragraph, which conform the Italian legal order to the generally recognized norms of international law, subordinating the legislative power of the State and of its Regions to comply with the Constitution itself, as well as to the bounds established by E.U. legislation and by international obligations, and establishing the power of the Italian Government to dutifully substitute bodies of the Regions, of metropolitan cities, of Provinces and Municipalities if the latter fail to comply with international rules and treaties or EU legislation;

– by Constitutional Law No. 1/1963, arts. 1, 2, 4 and 70 (see following point 35 b).

31. As for the Italian legal order, the Legislative Decree of the Provisional Head of State No. 1430/1947 ratified with Italian Law No. 3054/1952, which fully and completely implements in the Italian legal order the Treaty of Peace of 10 February 1947, in force, has never been repealed, amended, or made unenforceable with later domestic laws; the provisions of the same multilateral Treaty of Peace that establish and regulate the international Free Port of Trieste have never been repealed, amended, or made unenforceable with successive, equal-ranking legal instruments either (art. 15 *preleggi* // general principles of the Italian Civil Code; art. 75 of the Italian Constitution, arts. 26, 27, and 30 of the Vienna Convention on the Law of Treaties, ratified with Italian Law No. 112/1972).

Note: as for the lack of influence of the bilateral Italian-Yugoslav Treaty of 10 November 1975 on the provisions of the multilateral 1947 Treaty of Peace, see section O, point 2 (pages 65-74) of the review of laws attached to this writ of summon as document 3.

32. It follows that the full and complete enforcement, within the Italian legal order, of the aforementioned provisions of the Treaty of Peace of 10 February 1947 by virtue of the Legislative Decree of the Provisional Head of State No. 1430/1947, in force and ratified with Italian Law No. 3054/1952, is itself a primary international and Constitutional obligation of the Italian Republic, of the Italian Government, and consequently also of all of their bodies. This does also mean that no other law in force within the same Italian legal order can be legitimately invoked to oppose to the enforcement of the 1947 Treaty of Peace.

Note: furthermore, it appears evident that invoking a subordinate provision to prevent the enforcement of an upper-ranking one on the same subject gives raise to an irremediable logical and legal contradiction: in facts, it is impossible enforcing a legal order by breaching it.

33. The obligations established by the 1947 Treaty of Peace on this subject, implemented in the Italian legal order with the Legislative Decree of the Provisional Head of State No. 1430/1947, were later accompanied, within the same legal order, by the international obligations established with a Memorandum of Understanding signed in London on 5 October 1954, which is an additional executive instrument for the enforcement of the provisions of the Treaty of Peace revolving on the Provisional Regime of Government of the Free Territory of Trieste and of its international Free Port.

34. Following this additional executive instrument to the 1947 Treaty of Peace, the Italian Government received a special trusteeship mandate of temporary civil administration of the present-day Free Territory of Trieste, sub-entrusted to its responsibility by the Governments of the United States of America and of the United Kingdom of Great Britain and Northern Ireland for their role of primary administering Governments on behalf of the UN Security Council.

35. Said additional obligations implementing the 1947 Treaty of Peace, established and undertaken with the Memorandum of Understanding signed in London on 5 October 1954, are enforced within the Italian legal order in force:

a) in compliance with the letter of art. 2 of the Legislative Decree of the Provisional Head of State 1430/1947, with the Decree of the President of the Italian Republic of 27 October 1954, without number, [Official Gazette of the Italian Republic No. 249 of 28

October 1954] which establishes, for this purpose, a Commissioner General of the Government for the Territory of Trieste, placed under the direct authority of the Italian President of the Council of Ministers and in charge of exercising the special trusteeship mandate with the same powers of temporary civil administration sub-entrusted to the responsibility of the Italian Government and previously exercised by the primary administering British-U.S. Government, including *«all powers of Government, and administration (...) as well as jurisdiction»* [AMG FTT, Official Gazette - No. 1-16.9.1947 Proclamation No. 1].

b) in compliance with the Constitutional requirement to enforce international obligations, with Italian Constitutional Law No. 1/1963 - Special Statute of Region Friuli Venezia Giulia [Italian Official Gazette No. 29 of 1 February 1963] that *«on the bases of the principles of the Italian Constitution»* (art. 1) and therefore *«In harmony with the Constitution, with the general principles of the Republic's legal order (...) and with the international obligations of the State»* (art. 4) at its art. 70 confirms once again, on a Constitutional level, that the Municipalities (art. 2) of the present-day Free Territory of Trieste are subject to the special powers of temporary civil administration sub-entrusted to the Italian Government and delegated to the Commissioner General of the Italian Government, now split among three bodies established with the same Constitutional Law: a Commissioner of the Government in Region Friuli Venezia Giulia, a Prefect in Trieste, and the Region itself.

Note: as for the coherence of these provisions with the reference, at art. 1 of Constitutional Law No. 1/1963, to the *«unity of the Italian Republic, one and indivisible»* see the explanation provided at sections C, (pages 19-22) and G, point 3.4 (page 35) of the review of laws attached as document 3.

36. The consequent, special functional and hierarchic relations between the bodies in charge of the temporary civil administration sub-entrusted to the responsibility of the Italian Government under a special trusteeship mandate are and remain those established by the Italian Presidency of the Council of Ministers with Circular Letter of 29 October 1954 (Official Bulletin of the Italian Minister of the Interior No. 12 – December 1954, page 639 - document 15). The document confirms that the Commissioner General is invested with the high direction of State services and with the supervision of local services, as well as in charge of ensuring law and order in the administered Free Territory.

37. In international law, as in domestic law, there are no legal instruments other than the 1954 special trusteeship mandate sub-entrusted to the responsibility of the Italian Government to justify the exercise of the temporary civil administration in the Free Territory of Trieste and in its international Free Port through bodies and officers of the Italian Republic in compliance with the pertinent provisions of the 1947 Treaty of Peace.

Notes: as for the aforementioned, specific irrelevance of the Italian-Yugoslav bilateral treaty of 10 November 1975 for the 1947 Treaty of Peace, see the reasons expressed at section O, point 2 (pages 65-74) of the review of laws attached to this writ of summon as document 3.

The fact that the Italian Government exercise the mandate of temporary administration that is sub-entrusted to its responsibility through bodies and officers of the Italian State has been also described with the statement that the Free Territory and its international Free Port may be regarded as “political territory” (thus not as “sovereign territory”) of the Italian State.

38. The special trusteeship mandate of temporary civil administration sub-entrusted to the responsibility of the Italian Government by the British and U.S. Governments does also include, at art. 5 of the Memorandum of Understanding signed in London on 5

October 1954, the obligation to maintain the international Free Port of Trieste in general accordance with the provisions of articles 1 to 20 of Annex VIII of the 1947 Treaty of Peace: «*The Italian Government undertakes to maintain the Free Port of Trieste in general accordance with the provisions of Articles 1-20 of Annex VIII of the Italian Peace Treaty*». Indeed, it is the articles regarding the competences of the administering Government, while the following articles, 21 to 26 (about the International Commission of the Free Port, the settlement of disputes relating to the interpretation or execution of that Annex, possible amendments to it, and the obligations of other States) regard actions to be taken by the International Community of States.

39. During the Provisional Regime of Government, the decisional roles vested upon the Government Council and the popular Assembly (Parliament) under Annex VIII are to be exercised by the primary administering Governments (Annex VII, art. 1, second paragraph; art. 2, fourth paragraph) or by the sub-administering Government they have entrusted, including its auxiliary bodies (Commissioner of the Government: Decree of the President of the Italian Government of 27 October 1954, without number; art. 70 of the Italian Constitutional Law No. 1/1963).

40. The articles 1 to 20 of Annex VIII of the Treaty of Peace (Instrument for the Free Port of Trieste) do also recall all upper-ranking provisions in force on the legal status of the international Free Port, on its administering body, on its movable and immovable assets, on its permanent free zones, on the procedure needed to extend the free port regime to new areas, on its destination of use, on its system of taxation, as well as all connected and consequent rights, in particular:

a) its legal status, establishing:

– **at art.1 paragraph 1** that the customs free port is established and administered as a State corporation of the Free Territory of Trieste, with all the attributes of a juridical person and functioning in accordance with the provisions of Annex VIII of the Treaty of Peace: «*The Free Port shall be established and administered as a State corporation of the Free Territory, having all the attributes of a juridical person and functioning in accordance with the provisions of this Instrument.*».

Note: therefore, the international Free Port of Trieste cannot have legal existence, in any shape or form, as a body of a State other than the Free Territory of Trieste itself, and it is not a port right that may be transferred to other States either.

– **at art.3 paragraph 2** that «*The establishment of special zones in the Free Port under the exclusive jurisdiction of any State is incompatible with the status of the Free Territory and of the Free Port.*»

Note: this means that also the jurisdiction of the Free Territory of Trieste over the international Free Port it owns is limited to the functions established by the 1947 Treaty of Peace at art. 34 of Annex VII and with the provisions of Annex VIII.

b) its administering body, and the powers and obligations vested upon it, establishing:

– **at art.18, paragraphs 1 and 2** that the administration of the Free Port is to be carried on by a Director of the Free Port, whom is to represent it as a judicial person; the Director of the Free Port is to be appointed - or dismissed - following procedures that fall under the competences of the Governing authority and, eventually, to the UN Security Council; also, they cannot be a citizen of Italy or of former Yugoslavia: «*The*

administration of the Free Port shall be carried on by the Director of the Free Port who will represent it as a juridical person. The Council of Government shall submit to the Governor a list of qualified candidates for the post of Director of the Free Port. The Governor shall appoint the Director from among the candidates presented to him after consultation with the Council of Government. In case of disagreement the matter shall be referred to the Security Council. The Governor may also dismiss the Director upon the recommendation of the International Commission or the Council of Government. 2. The Director shall not be a citizen of Yugoslavia or Italy.».

Notes: it follows that, as confirmed at arts. 19 and 20 of Annex VIII, no intromission or competence of other bodies and authorities is allowed or permitted when it comes to the management of the international Free Port of Trieste.

During the current Provisional Regime of Government, the management of the international Free Port does exclusively consist of the relations between the Director of the Free Port and the provisional Government, or with the International Commission that may be established upon initiative of the States that have the right to be represented in it.

– **at art.19** that, in accordance with the provisions of Annex VIII, the Director of the Free Port is to take all reasonable and necessary measures for the administration, operation, maintenance and development of the Free Port as an efficient port adequate for the prompt handling of all to its traffics. In particular, the Director is responsible for executing of all kinds of port works in the Free Port, directing the operation of port installations and equipment, establishing, in accordance with legislation of the Free Territory, the conditions of labor in the Free Port, and also supervising the execution, in the Free Port, of orders and regulations of the authorities of the Free Territory in respect to navigation: *«Subject to the provisions of the present Instrument, the Director of the Free Port shall take all reasonable and necessary measures for the administration, operation, maintenance and development of the Free Port as an efficient port adequate for the prompt handling of all the traffic of that port. In particular, the Director shall be responsible for the execution of all kinds of port works in the Free Port, shall direct the operation of port installations and other port equipment, shall establish, in accordance with legislation of the Free Territory, conditions of labour in the Free Port, and shall also supervise the execution in the Free Port of orders and regulations of the authorities of the Free Territory in respect to navigation.»*

– **at art.20, paragraph 1** that *«The Director of the Free Port shall issue such rules and bye-laws as he considers necessary in the exercise of his functions as prescribed in the preceding Article.»*

– **at art.20, paragraph 2** that *«The autonomous budget of the Free Port will be prepared by the Director, and will be approved and applied in accordance with legislation to be established by the popular Assembly of the Free Territory».*

Note: during the current Provisional Regime of Government, the applicable legislation is that provided at Annex VII of art. 2, fourth paragraph, which enforces all compatible norms of the Permanent Statute.

– **at art.20, paragraph 3** that *«The Director of the Free Port shall submit an annual report on the operations of the Free Port to the Governor and the Council of Government of the Free Territory. A copy of the report shall be transmitted to the International Commission.»*

Note: during the Provisional Regime of Government, this report is to be presented to the administering Government and to the International Commission, if the States entitled have requested its establishment.

c) its movable and immovable properties establishing, **at art.2 paragraph 2**, that all former Italian state and para-statal properties within the limits of the Free Port which, in accordance with the provisions of the Treaty (Annex X, art. 1), are to pass to the Free Territory and then be then transferred, without payment, to the Free Port: *«All Italian state and para-statal property within the limits of the Free Port which, according to the provisions of the present Treaty, shall pass to the Free Territory shall be transferred, without payment, to the Free Port.»*.

Note: this means that the Free Port is entitled *ex lege* to own those assets in its role of State corporation of the Free Territory of Trieste (art.1 paragraph 1). According to the Austrian Land Registry System in force in Trieste, the registration of public properties in the Land Registry Book is optional. As for the enforcement, in Land Registry Procedures, of art. 1 of Annex X, see the proceeding initiated, under GN 1822/1949, by the *Avvocatura dello Stato del Territorio Libero di Trieste // State Legal Service* of the Free Territory of Trieste on behalf of the *Demanio dello Stato // State Property Office* of the Free Territory of Trieste.

d) its permanent free zones, establishing, **at art.3 paragraph 1**, that the area of the Free Port shall include the territory and installations of the former Italian and previously Austrian free zones of the port of Trieste within the limits of the 1939 boundaries: *«The area of the Free Port shall include the territory and installations of the free zones of the port of Trieste within the limits of the 1939 boundaries.»*.

Notes: this is how the international Free Port receives as initial, permanent boundaries those of the Italian and previously Austrian free zones that existed before the beginning of World War II, which did only end at the coming into force of the 1947 Treaty of Peace. The Northern Free Port (also called “old port” or “old free zone” for historical reasons) is itself included within those permanent boundaries.

This establishment of permanent, non-transferrable free zones is necessary to prevent that the international Free Port of Trieste is deactivated with measures suppressing, reducing, or transferring all of its free zones.

e) the procedure to extend it establishing, **at art.3 paragraph 4**, that *«In case it shall be necessary to increase the area of the Free Port such increase may be made upon the proposal of the Director of the Free Port by decision of the Council of Government with the approval of the popular Assembly.»*.

Note: this means that Annex VIII does not envision or allow procedures to reduce or to move away the permanent free zones established at its precious paragraph 1 of art. 3, instead, it provides a procedure to extend them, increasing them *ex novo*, and it does not limit the surface or the location of the free zones.

This procedure is the one carried out for all extensions of the free port regime issued until 21 January 2016 (*document 8*), first by the Commissioner General of the Government and then, since 1963, by the Commissioner of the Government in the Region: see section N, point 4 (pages 62-64) of the review of laws attached to this writ of summon as *document 3*.

Consequently, only the free zones established *ex novo* following the procedures laid down at art. 3, paragraph 4 of Annex VIII may be moved away, decreased, or eliminated.

f) its destination of use and the consequent or pertinent rights, establishing:

at art.1 paragraph 1, that the Free Port of Trieste is established to be used, on equal terms, for all international trade and by former Yugoslavia, Italy, and the States of Central Europe as is customary in other free ports of the world: *«will be available for use on equal terms by all international trade and by Yugoslavia, Italy and the States of Central Europe, in such manner as is customary in other free ports of the world.»*.

Note: what makes the free port of Trieste different from all other free ports is not the status of its customs free zones; it is the international regime, which comprehends the right of all States, of their enterprises, of their vessels, and of their freight to use it without facing discriminations (see following articles), as well as by the right, granted to some of these States (arts. 21,22, and 23) to exercise control powers over the Free Port of Trieste, it defers amendments to its regulations as well as the settlement of disputes to international procedures (arts. 24 and 25; Annex VII art. 36; Treaty of Peace, art. 86), and it does also establish obligations implemented by a group of States (art. 35 of Annex VI, arts. 16, 17, and 26 of Annex VIII).

– **at art.5 paragraph 1**, that *«Merchant vessels and goods of all countries shall be allowed unrestricted access to the Free Port for loading and discharge both for goods in transit and goods destined for or proceeding from the Free Territory»*

Note: this is that provision establishing the right of all States, and also of their enterprises, ships, and freight to use the international Free Port without restrictions or discriminations (see arts. 10, 16, 17 of Annex VIII, and at art. 35 of Annex VI).

– **at art.6** that *«Warehousing, storing, examining, sorting, packing and repacking and similar activities which have customarily been carried on in the free zones of the port of Trieste shall be permitted in the Free Port under the general regulations established by the Director of the Free Port.»*

– **at art.7 paragraph 1** that *«The Director of the Free Port may also permit the processing of goods in the Free Port.»*

– **at art.7 paragraph 2** that manufacturing activities in the international Free Port are permitted to the enterprises which existed before the coming into force of Annex VIII of the 1947 Treaty of Peace, and thus worked in Austrian (1719 - 1920) and then Italian (1920-1947) national free zones; also, that upon proposal of the Director of the Free Port, the Council of Government may permit the establishment of new manufacturing enterprises within the Free Port: *«Manufacturing activities in the Free Port shall be permitted to those enterprises which existed in the free zones of the port of Trieste before the coming into force of the present Instrument. Upon the proposal of the Director of the Free Port, the Council of Government may permit the establishment of new manufacturing enterprises within the limits of the Free Port.»*

– **at art.9 paragraph 1** that *«The authorities of the Free Territory will be entitled to fix and levy harbour dues in the Free Port.»*

Note: consequently, those port dues constitute revenues in the State budget of the Free Territory of Trieste (Annex VI art. 21, Annex VII, art. 2, fourth paragraph) to cover the costs it incurs in discharging the obligations embodied in Annex VIII. This does also mean that said revenues cannot be levied or diverted in the budget of other States.

– **at art.10** that *«In the fixing and levying in the Free Port of harbour dues and other charges under Article 9 above, as well as in the provision of the services and facilities of the Free Port, there shall be no discrimination in respect of the nationality of the vessels, the ownership of the goods or on any other grounds.»*

g) its tax treatment, establishing, **at art.5 paragraph 2**, that *«In connection with importation into or exportation from or transit through the Free Port, the authorities of the Free Territory shall not levy on such goods customs duties or charges other than those levied for services rendered.»*

h) the obligations of the Free Territory and of the other States, establishing:

– **at art.16 paragraph 1** that *«Freedom of transit shall, in accordance with customary international agreements, be assured by the Free Territory and the States whose territories are traversed to goods transported by railroad between the Free Port and the States which it serves, without any discrimination and without customs duties or charges other than those levied for services rendered.»*

Note: this same provision granting free transit is pre-consolidated at art. 35 of Annex VI – Permanent Statute of the Free Territory of Trieste, which establishes the international Free Port at the previous art.

34, places it under the regulations at Annex VIII, and ultimately binds the Government of the Free Territory to grant its enforcement also during the Provisional Regime, in compliance with Annex VII, art. 2, fourth paragraph.

– **at art.16 paragraph 2** that the Free Territory and the States assuming the obligations of the Annex VIII through whose territory such traffic passes in transit in either direction shall do all in their power to provide the best possible facilities for the efficient movement of such traffic at a reasonable cost, and shall not apply with respect to the movement of goods to and from the Free Port any discriminatory measures: *«The Free Territory and the States assuming the obligations of the present Instrument through whose territory such traffic passes in transit in either direction shall do all in their power to provide the best possible facilities in all respects for the speedy and efficient movement of such traffic at a reasonable cost, and shall not apply with respect to the movement of goods to and from the Free Port any discriminatory measures with respect to rates, services, customs, sanitary, police or any other regulations.»*

– **at art.16 paragraph 3** that the States assuming the obligations of Annex VIII shall not artificially divert traffic from the Free Port for the benefit of other seaports. The measures taken by the Governments of the successor States of Yugoslavia to provide for traffic their own ports shall not be regarded as measures designed to divert traffic artificially: *«The States assuming the obligations of the present Instrument shall take no measures regarding regulations or rates which would artificially divert traffic from the Free Port for the benefit of other seaports. Measures taken by the Government of Yugoslavia to provide for traffic to ports in southern Yugoslavia shall not be considered as measures designed to divert traffic artificially.»*

Note: the specific aim of the provisions is preventing the artificial diversions of traffic destined to the international Free Port of Trieste to the Italian Adriatic and Tyrrhenian seaports.

– **at art.17** that the Free Territory and the States assuming the obligations of Annex VIII shall, in accordance with international agreements on customs, grant freedom of postal, telegraphic, and telephonic communications between the Free Port area and any other State due to said communications being either originated or destined to the Free Port area: *«The Free Territory and the States assuming the obligations of the present Instrument shall, within their respective territories and on non-discriminatory terms, grant in accordance with customary international agreements freedom of postal, telegraphic, and telephonic communications between the Free Port area and any country for such communications as originate in or are destined for the Free Port area.»*

41. In synthesis, under upper-ranking laws in force within the Italian legal order: the international Free Port of Trieste does legally exist only as a State corporation of the Free Territory of Trieste, it is to be managed by a Director, whom cannot be a citizen of Italy or of former Yugoslavia, also, the international Free Port owns and had the permanent right to use the areas and facilities within the 1939 free zones, the transfer of which is not envisioned or permitted, while their extension to new areas may be decided under certain conditions; also, the international Free Port is exempted from custom duties and other levies, except for the services rendered, and the Free Territory, as well as all other States, must grant freedom and efficiency to its communications and to its traffics, also committing to not divert them.

42. The main obligations of the Government of the Free Territory of Trieste on this matter, which consequently are also included within the framework of the 1954 special trusteeship mandate sub-entrusted to the responsibility of the Italian Government, are established:

– **at art.34, second paragraph of Annex VI – Permanent Statute** (enforced in the Provisional Regime in compliance with art.2, fourth paragraph of Annex VII) binds the Government of the Free Territory to enact all necessary legislation and to take all necessary steps to enforce the provisions of Annex VIII: *«The Government of the Free Territory shall enact all necessary legislation and take all necessary steps to give effect to the provisions of such Instrument.»*

– **by the specific roles assigned to the Governing bodies at arts. 3, paragraph 1, 4, 7, 8, 9, paragraph 1, 11, 14, 15, 16, 17, 16, 20, 21, paragraph 2, 23, and 25 of Annex VIII.** The obligations established at arts. 1 to 20 include:

– **art. 4**, establishing that, unless otherwise provided by Annex VIII itself, the laws and regulations in force in the Free Territory are applicable to persons and property within the boundaries of the Free Port: *«Unless otherwise provided for by the present Instrument the laws and regulations in force in the Free Territory shall be applicable to persons and property within the boundaries of the Free Port and the authorities responsible for their application in the Free Territory shall exercise their functions within the limits of the Free Port.»*

– **art. 15**, ruling that *«It shall be the duty of the authorities of the Free Territory to provide the Free Port with water supplies, gas, electric light and power, communications, drainage facilities and other public services and also to ensure police and fire protection.»*

43. The obligations of the Italian Republic and of its bodies, officers, and public authorities consist in the full and correct obedience to the laws that enforce in the Italian legal order - with a rank superior to than of any other domestic law - the provisions of the 1947 Treaty of Peace about the present-day Free Territory of Trieste, its Provisional Regime of Government, and its international Free Port, in detail: **arts. 4, 21, 22, 48, paragraph 5, 78, paragraph 7, 79, paragraph 6 point g, 86, and 87 of the Treaty** and its following **Annexes: I D (Maps); VI (Permanent Statute of the Free Territory of Trieste); VII (Instrument for the Provisional Regime of the Free Territory of Trieste); VIII (Instrument for the Free Port of Trieste); IX (Technical dispositions regarding the Free Territory of Trieste); X (Economic and financial provisions relating to the Free Territory of Trieste).**

44. Indeed, international obligations of the Italian Republic, of the Italian Government, and of their bodies on this matter are implemented within the Italian legal order on two different and coexisting levels, with equal primacy: under the Constitutional constraint of the 1947 Treaty of Peace (Decree of the Provisional Head of State No. 1430/1947, Italian Law No. 3054/1952) and under the 1954 special trusteeship mandate of temporary civil administration sub-entrusted to the responsibility of the Italian Government (Decree of the President of the Italian Republic of 27 October 1954, without number, Italian Constitutional Law No. 1/1963 arts.1, 2, 4, and 70).

45. Furthermore, the nature of these obligations, as well as the Constitutional legal order, prevent the Italian Republic, the Italian Government, or any of their bodies from amending the instruments that implement and enforce them, as well as from choosing which obligations in force to apply and which not to.

Note: consequently, the enforcement of certain provisions of Annex VIII prescinding from the others, or even prescinding from the 1947 Treaty of Peace that establishes and regulates the Free Territory of Trieste and the international Free Port itself, constitutes an arbitrary inconsistency that lacks legal and logical ground.

46. The legislation of the European Union, implemented in the Italian legal order with a rank superior to that of domestic legislation, recognizes and confirms with its own legal instruments on ports and on customs the legal status of the international Free Port of Trieste (see section K at pages 47-52 and section L at pages 52-54 of the review of laws attached to this writ of summon as document 3).

47. The legal force of the instruments establishing the present-day Free Territory of Trieste and the 1954 special trusteeship mandate entrusted to the responsibility of the Italian Government for it to enforce the pertinent provisions of the 1947 Treaty of Peace itself and of the obligations of the Italian Republic on this subject was confirmed once again in 2017 with legal acts issued both by the sub-administering Italian Government and by the Italian Parliament in order to regularize the management of the international Free Port of Trieste due to certain breaches of the law that are also addressed as main subject of this lawsuit, and specifically:

– by the inter-ministerial Decree of 13 July 2017 – Administrative organization for the management of the free zones included within the area of the Free Port of Trieste” (published in the Official Gazette of the Italian Republic No. 177 of 31 July 2017) issued by the Italian Ministry of Infrastructures and Transport together with the Italian Ministry of Economy and Finance in compliance with art. 6, paragraph 12 of Italian Law No. 84/1994 and of *«the Memorandum of Understanding of London of 5 October 1954 between the Governments of Italy, of the United Kingdom, of the United States, and of the Socialist Federal Republic of Yugoslavia regarding the regime of temporary administration of the Free Territory of Trieste, envisioned at Annex VII of the Treaty of Peace between Italy and the Allied and Associated Powers, signed in Paris on 10 February 1947»*;

Note: the Decree does therefore recognize the effectiveness and legal force, within the Italian legal order, of the 1947 Treaty of Peace that establishes the Free Territory of Trieste as well as its Provisional Regime of Government (special trusteeship), sub-entrusted to the responsibility of the Italian Government since 1954.

– by Italian Law No. 205/2017 – Projected Budget of the State for financial year 2018 and multi annual plan for three-year term 2018-2020 (Ordinary Supplement to the Italian Official Gazette No. 302 of 29 December 2017; published again, with notes, in the Official Gazette of the Italian Republic No. 15 of 19 January 2018) which, at paragraph 66 letter b) of art. 1, amends paragraph 618 of art. 1 of the Italian Budget Law No. 190 of 23 December 2014, confirming once again the legal force and efficacy *«of the Treaty of Peace between Italy and the Allied and Associated Powers signed at Paris on 10 February 1947, enforced with Legislative Decree of the Provisional Head of State No. 1430 of 28 November 1947, ratified with Italian Law No. 3054 of 25 November 1952.»*

Notes: as mentioned above, this amendment does directly deactivate the core provision at paragraph 618 of the 2014 Italian Budget Law by making it unenforceable, and it does so subordinating it to the provisions of the 1947 Treaty of Peace (Annex VIII, art. 3) that preclude it.

The impossibility to enforce the preliminary transfer of the international free port regime is in itself enough to invalidate, *ipso facto*, and thus to make unenforceable, not only all connected and consequent provisions at paragraphs 619 and 620 of Law No. 190/2014, but also the amendment to paragraph 618, letter a) of paragraph 66 of Italian Law No. 205/2017 itself, because that transfers to the President of the Port Authority the duty, previously vested upon the Commissioner of the Government, of transferring the free port regime - in itself an illegitimate act.

48. Furthermore, the Italian legal order prevents *ab origine* to enforce the provisions at paragraphs 618, 619, and 620 of Italian Law No. 190/2014 and of its amendments with the upper-ranking provisions of the Legislative Decree of the Provisional Head of State No. 1430/1947, ratified with Italian Law No. 3054/1952, because:

a) the transfer of the international free port regime (free zone) from the Northern Free Port, also called “Old Port” of the international Free Port of Trieste is forbidden by the upper-ranking provisions of art. 3 of Annex VIII, which forbid it by establishing the permanent free zones of the international Free Port and by providing the procedure that only allows to extend the free zones to new areas.

Note: furthermore, even if these provisions did not exist, it is a basic logical and legal fact, as well as a general principle consolidated within the generally recognized principles of international law (art. 10 of the Italian Constitution) that the enforcement of an international regime cannot be modified by unilateral domestic laws, regardless of the State issuing them.

Also, transferring the international Free Port would constitute a breach of the upper-ranking legislative powers and obligations on the matter that are entrusted to the Commissioner of the Government in the Region under the Decree of the President of the Italian Republic of 27 October 1954 (without number) and under art.70 of Italian Constitutional Law No. 1/1963; furthermore, transferring such powers to the President of the Port Authority does as well conflict with the same upper-ranking provisions in force.

Finally, this conflict with specific upper-ranking provisions of the current Italian legal was directly included in paragraph 618 of art. 1 of Italian Law No. 190/2014 by virtue of paragraph 66, letter b) of art. 1 of Italian Law 205/2017, in force since 1 January 2018, and so that paragraph was deactivated.

This is why the initial and successive measures to transfer the international free port regime pursuant to paragraph 618 of art. 1 of Italian Law No. 190/2014 and of its amendments are unenforceable under the law, both *ab origine* and in their current letter, amended by paragraph 66, letter b) of Italian Law No. 205/2017, also, their enforcement was not, and is not, among the powers and obligations of the bodies mentioned in the original text (Commissioner of the Government in Region Friuli Venezia Giulia) as well as in its new, amended version (President of the Port System Authority of the Eastern Adriatic Sea).

Since the envisioned transferring of the international free port regime pursuant to the provisions at paragraph 618 of Italian Law No. 190/2014 is legally set as a necessary step to enforce the provisions at paragraphs 619 and 620 of the same law «*consequently to the provisions laid down at paragraph 618*», its unenforceability does, logically and legally, prevent their enforceability as well, prescinding also from their own

unenforceability in the merit, which is still addressed and explained hereafter for the purposes of this legal action.

For the same aforementioned reasons, the provisions envisioning the transfer of the international free port regime, legally unenforceable, cannot constitute or be included in titles suitable for a Land Registry procedure.

b) the removal from State Property of the buildings and of the assets included in the unenforceable provision for the transfer of the international free port regime is itself completely forbidden under the upper-ranking provisions in force at arts. 2 and 3 of Annex VIII, which establish the permanent status of ownership of these port assets by making them permanent, unavailable assets of the international Free Port of Trieste, legally established as a State Corporation of the present-day Free Territory of Trieste.

Consequently those assets are not part of the Maritime State Property of the Free Territory either, which in itself can be managed by the Italian State's State Property Agency, by the Port Authority, or by Region Friuli Venezia Giulia.

Note: the management of State properties of the Free Territory of Trieste falls within the special trusteeship mandate of temporary civil administration sub-entrusted to the responsibility of the Italian Government, which can exercise it through authorities and bodies of the Italian Republic, however, that management is not and cannot become ownership. In case these bodies claim to own these assets in acts produced to assess the truth, the officers responsible bear all civil, criminal, and administrative liabilities (art. 28 of the Italian Constitution) and their acts are null and void.

This is why the measures to remove from State Property the aforementioned port assets, established at paragraph 619 of art. 1 of Italian Law No. 190/2014 and its amendments, are legally unenforceable both *ab origine* and due to the amendment occurred with paragraph 66 letter b) of Italian Law No. 205/2017, and their enforcement by either the State Property Agency, the Port Authority, or Region Friuli Venezia Giulia is outside the powers vested on those bodies.

For the same reasons, those unenforceable provisions for the removal of port assets from State Property cannot legitimately constitute or be included in titles suitable for a Land Registry procedure either.

c) the assignation of those unavailable State port assets to the Municipality of Trieste as available assets under a mandate to establish their new destination of use and then sell them off on the real estate market transferring all revenues to the Port Authority, now "Port System Authority of the Eastern Adriatic Sea" for it to re-invest them in new Free Port assets, is absolutely forbidden by the upper-ranking provisions in force at arts. 1, 2, and 3 of Annex VIII, which establish the permanent status of ownership and destination of use of these port assets by including them among the unavailable properties of the international Free Port of Trieste, legally established as a State corporation of the present-day Free Territory of Trieste.

This means that the port assets in question cannot be legally transferred to the Municipality of Trieste, cannot receive a new destination of use, and cannot be sold by the Municipality, either for its own profit or for that of other parties invoking paragraphs 618 and 619 of art. 1 of Italian Law No. 190/2014 and its amendments.

For this reason, the measures assigning the Municipality those port assets, for it to urbanize and to sell them off in compliance with paragraph 619 of art. 1 of Italian Law No. 190/2014 and its amendments are unenforceable *ab origine*, and their enforcement is outside the authority and competences of the Municipality of Trieste.

For the same reason, the aforementioned unenforceable provisions that assign to the Municipality of Trieste those port assets, envisioning their urbanization and their sale, cannot constitute or be included in titles suitable for a Land Registry procedure.

d) The substitution of the competences of the Commissioner of the Government in the Region with those of the President of the Port Authority (APdSMAO) included by paragraph 66 letter a) of Italian ordinary Law No. 205/2017 amending the unenforceable paragraph 618 of art. 1 of Italian Law No. 190/2014 is unenforceable as well, because it conflicts with upper-ranking laws in force, namely with arts. 18, 19, and 20 of Annex VIII, which forbid it by establishing the body for the management of the international Free Port, its competences, and with art. 70 of Italian Constitutional Law 1/1963, which transfers the exercise of the powers of temporary civil administration that are sub-entrusted to the responsibility of the Italian Government from the Commissioner General established with the Decree of the President of the Italian Republic of 27 October 1954 (without number) by splitting it among the Commissioner of the Government in Region Friuli Venezia Giulia, the Region itself, and a Prefect.

It follows that all measures taken by the President of the Port Authority invoking paragraph 618, the subordinate paragraph 619 of Italian Law No. 190/2014, and its amendments are null and void, as well as unenforceable.

For the same reasons, the legally unenforceable measures invoked by the President of the Port Authority cannot constitute or be included in titles suitable for a Land Registry procedure.

e) the assignation of the right to use the State-owned areas of the Northern Free Port (“old port”) of Trieste to the Port Authority in compliance with paragraph 620 of art. 1 of Italian Law No. 190/2014 is unenforceable as it conflicts with upper-ranking laws in force, namely with arts. 2, 18, 19, and 20 of Annex VIII, which forbid it by establishing the ownership of these areas, the body in charge of administering the international Free Port, its competences, and also with art. 6 paragraph 12 of L. 84/1994 and its amendments, which defer the regulation of the administrative management of the Free Port to the Ministry of Infrastructures and Transport together with the Ministry of Economy and Finance.

It follows that all measures taken by the President of the Port Authority in compliance with paragraph 620 of Italian Law No. 190/2014 and its amendments are null and void, as well as unenforceable.

For the same reasons, the legally unenforceable measures invoked by the President of the Port Authority cannot constitute or be included in titles suitable for a Land Registry procedure.

FURTHER FACTS

49. Since 2009, the Italian Government, sub-entrusted with the temporary civil administration of the present-day Free Territory of Trieste, forces on the international Free Port a special surcharge on port dues to favor the ports of the Italian State.

The Authorities of the Free Territory of Trieste are allowed to collect port dues within the international Free Port of Trieste under art. 9 of Annex VIII of the 1947 Treaty of Peace (see previous point 40 f).

With art. 3, paragraph 2, of the Decree of the President of the Italian Republic No. 107/2009, issued upon decision of the Council of Ministers, the sub-administering Italian Government forced on Trieste a special surcharge on port dues (anchor duty and port duty) *«al fine di riequilibrare il rapporto differenziale tra la misura della tassazione da applicarsi al porto franco di Trieste e quella relativa alla generalità dei porti nazionali ed evitare possibili distorsioni di concorrenza»* // *«in order to restore the differential between the taxation to be enforce in the free port of Trieste and that of national [Italian] ports as a whole, and to prevent possible distortions of competition».*

This surcharge reduces the tax advantages of the international Free Port of the present-day Free Territory of Trieste for commercial traffics, favoring the ports of the Italian State, in breach of art. 16 of paragraph 3 of Annex VIII, which forbids to the States that assume the obligations of that Instrument the adoption of measures to artificially divert traffic from the Free Port for the benefit of other seaports: *«The States assuming the obligations of the present Instrument shall take no measures regarding regulations or rates which would artificially divert traffic from the Free Port for the benefit of other seaports.»*

This means that the prohibition regards the Italian Government in both of its roles: that of ordinary Government of the Italian Republic and that of provisional Government of the present-day Free Territory of Trieste under the special trusteeship mandate of temporary civil administration, sub-entrusted to its responsibility by the Governments of the United States of America and of the United Kingdom of Great Britain and Northern Ireland as primary administering Governments on behalf of the UN Security Council.

The Italian Government has taken this decision regardless of an evident conflict of interest between the two States it represents, and the promulgation of a Decree of the President of the Italian Republic that breaches the obligations established by the 1947 Treaty of Peace does also constitute a breach of arts. 1 and 2 of the Decree of the Provisional Head of State No. 1430/1947, ratified with Italian Law No. 3054/1952.

Furthermore, justifying that measure addressing *«possible distortions of competition»* cannot be referred to compliance with E.U. legislation, because Community Law, implemented in the Italian legal order, recognizes *ab origine* the superior rank, in the hierarchy of the sources of law, of the obligations established under the 1947 Treaty of Peace, in force (art. 235 TEEC, art. 307 TEC, art. 351 TFEU).

This means that the enforcement of the provisions at art. 3, paragraph 2 of the Decree of the President of the Italian Republic No. 107/2009, forcing a special surcharge of port

dues on the international Free Port of Trieste is forbidden *ab origine* due to opposite provisions of the upper-ranking pertinent laws in force that recognize and enforce, within the Italian legal order, the international legal instruments that establish and regulate the international Free Port of Trieste and the consequent Constitutional and international obligations of the Italian Republic and of the Italian Government on the same subject.

50. The sub-administering Italian Government forces the *accise* // excise duties (taxes on the production and sale) of the Italian State on fuels, combustibles (including gas), and on electricity to the international Free Port of Trieste.

Art.15 of Annex VIII of the 1947 Treaty of Peace binds the Authorities of the Free Territory of Trieste to provide water supplies, gas, electric light and the electricity needed for all business and manufacturing activities that take place within the specific legal regime.

The specific legal regime of the international Free Port is that established at art. 5, paragraph 2 of Annex VIII, which rules that the Authorities of the Free Territory of Trieste cannot levy customs duties or charges, other than those levied for services rendered, on the goods imported, exported, or transiting through the Free Port: *«In connection with importation into or exportation from or transit through the Free Port, the authorities of the Free Territory shall not levy on such goods customs duties or charges other than those levied for services rendered.»*

Art. 7 of Annex VIII permits and envisions manufacturing activities in the Free Port, which are themselves aimed at importation and exportation, therefore, enjoy the same tax regime.

Paragraph 3 of art. 5 of Annex VIII allows national taxes of the Free Territory be levied only on either goods exported or imported through the Free Port and destined to the Free Territory itself: *«However, in respect of goods, imported through the Free Port for consumption within the Free Territory or exported from this Territory through the Free Port, appropriate legislation and regulations in force in the Free Territory shall be applied.»*

This means that, regardless of their origin, all fuels, combustibles (including gas), and electricity that enter, are stored - regardless of their shape - or are transformed, produced, and used within the international Free Port of Trieste to be exported or to meet the needs of the Free Port itself as of any of the Companies that work in its areas are subject to the very same custom free regime as any other good by virtue of Annex VIII of the Treaty of Peace.

Art. 9, paragraph 1 of Annex VIII entrusts the legislative authority to decide about port dues to the Director of the Free Port envisioned at art. 18. As part of the exercise of temporary civil administration of the Free Territory of Trieste, in compliance with the special trusteeship mandate sub-entrusted to its responsibility, the Italian Government has provisionally assigned that role of the Director of the Free Port first to a Commissioner General of the Government for the Territory of Trieste, with the Decree

of the President of the Italian Republic of 27 October 1954 (without number) and later, under art. 70 of Italian Constitutional Law 1/1963, to the Commissioner of the Government in Region Friuli Venezia Giulia.

As part of the exercise of this provisional legislative power, the Commissioner General of the Italian Government has confirmed the exemption from the Italian excise on fuels, combustibles, and energy needed for the activities of the Free Port with *Decreto n. 53 del 23 dicembre 1959 – Istituzione di un Punto Franco nel comprensorio del Porto Industriale di Trieste* // Decree No. 53 of 23 December 1959 – Establishment of a Free Zone in the complex of the Industrial Port of Trieste, in force (Official Bulletin of the Commissioner of the Government in the Territory of Trieste No. 36 of 21 December 1954, Ordinary Supplement dated 24 December 1959);

In particular, adjusting the activities of the new industrial free zone to the general regime of the international Free Port, art. 3 of the Decree explains that *«I prodotti petroliferi e i combustibili destinati al consumo degli stabilimenti industriali ubicati nell'ambito del punto franco istituito dal presente decreto sono ammessi all'esenzione del dazio doganale e dalla sovrainposta di confine, se esteri, e dal pagamento dell'imposta di fabbricazione se nazionali. È altresì ammessa alla esenzione dall'imposta erariale di consumo l'energia elettrica comunque impiegata negli stabilimenti stessi.»* // «Oil products and combustibles destined to the companies within the industrial free zone established with this decree are to be exempted from custom duties and from the cross-border surcharge if they are foreign-made, and from the excise duty if they are produced domestically. The exemption from the revenue tax on electricity is to be enforced as well, regardless of how the businesses use said energy.»

Furthermore, at Annex IX, letter B, paragraphs 1 and 2, the 1947 Treaty of Peace establishes that Italy and former Yugoslavia are to supply the Free Territory of Trieste with all electricity it needs at a price no bigger than their own, domestic cost of production, and therefore are barred from levying taxes or duties on that supply.

Finally, the 1947 Treaty of Peace, implemented in the Italian legal order (Legislative Decree of the Provisional Head of State No. 1430/1947, Italian Law No. 3054/1952, Decree of the President of the Italian Republic of 27 October 1954, without number, Italian Constitutional Law No. 1/1963) with a rank superior to that of any other law in force, forbids, even during the current Provisional Regime of Government, the establishment and collection of taxes in the Free Territory of Trieste and in its international Free Port in the name of in the budget of third Countries, as is the Italian State, or the collection of taxes established under E.U. legislation (because that has a rank inferior to the obligations established with the 1947 Treaty of Peace: art. 235 TCEE, art. 307 TCE, and art. 351 TFUE).

Indeed, the Italian Republic's right to collect sovereign credit in the area of the present-day Free Territory of Trieste, including its international Free Port, ended on 15 September 1947, at the coming into force of the Treaty of Peace signed in Paris on 10 February 1947 (art. 21 paragraph 2: *«Italian sovereignty over the area constituting the Free Territory of Trieste, as above defined, shall be terminated upon the coming into force of the present Treaty.»*), implemented in the Italian legal order with a pre-constitutional and Constitutional rank superior to that of any other law in force (Legislative Decree of the Provisional Head of State No. 1430/1947, ratified with Law

No. 3054/1952; articles 10, first paragraph, art. 117, first paragraph, and art. 120, second paragraph of the Italian Constitution).

In conclusion, the acts of the sub-administering Italian Government establishing excise duties of the Italian State on fuels, combustibles (including gas) and electricity imported, exported, used, or produced within the present-day Free Territory of Trieste or within its international Free Port are forbidden by upper-ranking laws in force, which do also implement and enforce in the Italian legal order the instruments of international law establishing and regulating the international and Constitutional obligations of the Italian Republic and of the Italian State on this subject.

51. Since 2007, the Municipality of Trieste demands that concessionaires of buildings located within the international Free Port of Trieste pay local taxes on real estates in compliance with Legislative Decree No. 704/1992 and its amendments, which establish the ICI – *Imposta Comunale sugli Immobili* // Municipal Tax on Immovable Property, now substituted with the IMU – *Imposta Municipale Unica* // Consolidated Municipal Tax under Legislative Decree No. 67/2011 and its amendments. This demand of the Municipality has given raise to legal dispute, currently amounting to more than EUR 5 million, which involves the tax authority and, as claimants, the enterprises that received those concessions. Under Italian Law No. 205/2017, art. 1, paragraph 578, this tax demand is going to be lowered, but not cancelled, from 1 January 2020.

The establishment and collection of Municipal taxes within the international Free Port of Trieste is forbidden under the provisions in force of Annex VIII of the Treaty of Peace of 10 February 1947, in particular:

– by art. 5, paragraph 2: which sets the taxation system of the international Free Port, ruling that *«In connection with importation into or exportation from or transit through the Free Port, the authorities of the Free Territory shall not levy on such goods customs duties or charges other than those levied for services rendered.»*

– by arts. 18, 19, and 20, which establish the administering authority of the international Free Port, its competences, as well as prohibiting other intromissions, no matter their nature, of other bodies or authorities, as is the Municipality of Trieste.

Ultimately, the enforcement of Italian laws establishing Municipal taxes on real estates within the international Free Port of Trieste is completely forbidden by upper-ranking laws in force, which enforce and implement in the Italian legal order itself the international instruments that establish and regulate the international Free Port of Trieste, as well as the international and Constitutional obligations of the Italian Republic and of the Italian Government deriving from them and regarding this subject.

52. With its inter-ministerial Decree of 13 July 2017, the sub-administering Italian Government assigned to the Trieste Port Authority (AdSPMAO) the administrative powers over the international Free Port of Trieste that upper-ranking laws in force assign to the Director of the Free Port instead.

The inter-ministerial Decree of 13 July 2017 – Administrative organization for the management of the free zones included within the area of the Free Port of Trieste

(Official Gazette of the Italian Republic No. 177 of 31 July 2017) was issued by the Italian Ministry of Infrastructures and Transport together with the Italian Ministry of Economy and Finance, in compliance with the obligations at art. 6, paragraph 12 of Italian Law No. 84/1994 (see above at Premise, least to last paragraph) and of *«the Memorandum of Understanding of London of 5 October 1954 between the Governments of Italy, of the United Kingdom, of the United States, and of the Socialist Federal Republic of Yugoslavia regarding the regime of temporary administration of the Free Territory of Trieste, envisioned at Annex VII of the Treaty of Peace between Italy and the Allied and Associated Powers, signed in Paris on 10 February 1947»*.

These upper-ranking obligations in force of the Italian Government, in its role of provisional Government to the responsibility of which is sub-entrusted the temporary civil administration of the present-day Free Territory of Trieste, establish that, under art. 18 of Annex VIII of the 1947 Treaty of Peace, the administration and legal representation of the international Free Port of Trieste be carried out by a Director of the Free Port, who cannot be a citizen of former Yugoslavia or of Italy: *«The administration of the Free Port shall be carried on by the Director of the Free Port who will represent it as a juridical person. [...] The Director shall not be a citizen of Yugoslavia or Italy.»*

Art. 3 of the inter-ministerial Decree of 13 July 2017, despite being issued in compliance with these obligations, states that *«Il porto franco di Trieste è amministrato dall'Autorità di Sistema Portuale»* // *«The Free Port of Trieste is administered by the Port System Authority»*, represented by its President, whom successive articles of the same Decree do also vest with the powers that Annex VIII assigns to the Director of the Free Port instead.

Furthermore, the Decree fails to apply to the President of the Port Authority, in this role, the precautionary restrictions on citizenship established for the Director of the Free Port at art. 18, paragraph 2, as well as failing to apply to the staff the favorable clause for the employment of citizens of the Free Territory established at art. 18, paragraph 3.

The Decree identifies said Port System Authority as *“Autorità Portuale di Sistema del Mare Adriatico Orientale”* // *“Port System Authority of the Eastern Adriatic Sea”*, the body that, since 2018, administers also the nearby Italian port of Monfalcone under the name of *“Autorità Portuale di Sistema del Mare Adriatico Orientale - Porti di Trieste e di Monfalcone”* // *“Port System Authority of the Eastern Adriatic Sea - Ports of Trieste and of Monfalcone”*, the presidency of which is since assigned to an Italian citizen.

The Trieste Port Authority was originally established under Italian Law 84/1994, which establishes Italian Port Authorities, with a reserve at art. 6, paragraph 12, confirming *«la disciplina vigente per i punti franchi compresi nella zona del porto franco di Trieste»* // *«The discipline in force regarding the free zones included within the area of the free port of Trieste»* as well as binding the competent Ministry of the sub-administering Italian Government to establish *«l'organizzazione amministrativa per la gestione di detti punti franchi»* // *«the administrative organization for the management of said free zones»* issuing a specific decree.

Since 1954, the sub-administering Italian Government exercises also legislative and administrative powers over the international Free Port of Trieste, first (1954-1964)

through a Commissioner General of the Italian Government in the Territory of Trieste (Decree of the President of the Italian Republic of 27 October 1954, without number), and then, under art. 70 of the Italian Constitutional Law No. 1/1963, through the Commissioner of the Government in Region Friuli Venezia, who exercises them since, issuing legislative decrees (*see document 3*, section N point 4, pages 62-64) in the wait for the enforcement of the provisions of Italian Law No. 84/1994, with the appointment of the Director of the Free Port in compliance with the 1947 Treaty of Peace.

However, for 23 years (1994-2017) the administering Italian Government has not issued that fundamental decree, and during that time the management of the Free Port was carried out by the aforementioned Italian Port Authority, which has powers, purposes, and structures that are incompatible with these established at Annex VIII of the Treaty of Peace to the Director of the Free Port and to their office.

This state of incompatibility and lack of legitimacy limits and hampers the legal validity of all acts of that Port Authority, as well as damaging the international Free Port and the enterprises of all States that work there or are entitled with rights over it.

In 2017, the denounce of the harmful consequences of said state of things forced the Italian Government to issue the decree envisioned by Italian Law No. 190/2014 on the administrative management of the free zones of the international Free Port.

This inter-ministerial Decree is that issued on 13 July 2017 and in its premise it declares to be enforcing the obligations of the special trusteeship mandate of temporary civil administration sub-entrusted to the responsibility of the Italian Government, however, in the letter, it does against those obligations substituting the Director of the Free Port with an Italian Port Authority, represented by a President, and failing to apply the precautionary restrictions on citizens established for the Director and for the port staff, as well as neglecting other provisions that are incompatible with the legal nature, structure, and operational limits of the Italian Port Authorities.

It follows that the provisions of inter-ministerial Decree of 13 July 2017 – *Organizzazione amministrativa per la gestione dei punti franchi compresi nella zona del porto franco di Trieste // Administrative organization for the management of the free zones included within the area of the Free Port of Trieste assigning the management of the Free Port of Trieste to the Port System Authority and limiting the enforcement of articles 1 to 20 of Annex VIII cannot be legally enforced within the Italian legal order due to a conflict with upper-ranking laws in force that prohibit it and establish the rightful body in charge of the international Free Port and its competences: arts. 18, 19, and 20 of Annex VIII of the Treaty of Peace of 10 February 1947, implemented with the Legislative Decree of the Provisional Head of State No. 1430/1947, Italian Law No. 3054/1952, Decree of the President of the Italian Republic of 27 October 1954, without number, and arts. 1, 2, 4, and 70 of Italian Constitutional Law No. 1/1963.*

53. On 23 March 2019, the President of the Trieste Port Authority (AdSPMAO) signed in Rome a “*Accordo di cooperazione fra Autorità di Sistema Portuale del Mare Adriatico Orientale – porti di Trieste e Monfalcone e China Communications Construction Company*” // “Cooperation agreement between the “Port System

Authority of the Eastern Adriatic Sea - Ports of Trieste and Monfalcone” and “China Communications Construction Company” (CCCC), which is a State company of the People’s Republic of China (RPC), as part of the relations between the Italian and the Chinese Government and of the so-called “Belt and Road Initiative (BRI), aiming at the joint creation of the so-called “Silk Road Economic Belt” through a “Maritime Silk Road.” (*document 16*).

The Trieste Port Authority undersigned this Agreement as the body that *«amministra, promuove e sviluppa i porti del Mare Adriatico Orientale (Trieste, con le proprie zone franche, e il porto di Monfalcone)» // «administers, promotes, and develops the seaports of the Eastern Adriatic (Trieste, with its free zones, and the port of Monfalcone)»* and, with this role *«gestisce, in cooperazione con altri portatori di interesse aventi natura pubblica, lo sviluppo dell’infrastruttura ferroviaria all’interno del porto e, attraverso soggetti controllati, nodi ferroviari/intermodali collocati nella regione portuale» // «manages, together with other public stakeholders, the development of railway infrastructures within the port and, through connected subjects, the rail/intermodal nodes within the port area»* presenting, as part of the “UE-China Connectivity Platform” also *«il progetto “Trihub” consistente in un piano integrato di rinforzo del sistema infrastrutturale ferroviario nell’area compresa fra Cervignano del Friuli, Villa Opicina e Trieste, sviluppato in collaborazione con il gestore della rete ferroviaria italiana (Rete Ferroviaria Italiana S.p.a. – RFI).» // «project “Trihub” consisting in a joint plan to strengthen the railway system in the area between Cervignano del Friuli, Villa Opicina, and Trieste, to be developed together with the company that manages Italian railway networks (Rete Ferroviaria Italiana S.p.a. – RFI).»*

The main topic addressed in the aforementioned Agreement is the entering of CCCC, a PRC State company, in the funding process, planning, construction, and management of strategic railroad facilities of the international Free Port and of the customs port of Trieste, with special attention to the planning of the intermodal platform of Servola, of the new intermodal platform of Aquilinia, and of the railway yards of Trieste, Opicina (Opicina), and of Cervignano del Friuli.

As for the railway yard of Aquilinia, the Agreement states that it is *«inclusa in un’area sotto diretto controllo di AdSPMAO» // «within an area under the direct control of the AdSPMAO»*. The area is the one of the EZIT - *Ente per Zona Industriale di Trieste // Organization for the Industrial Zone of Trieste*, which was put in liquidation in 2015 due to demands of Italian taxes by the COSELAG - *Consorzio di Sviluppo Economico Locale dell’Area Giuliana // Consortium for the Local Economic Development of the Julian Area*, established for this purpose and under the control of the Port System Authority (52%) together with the Municipalities of Trieste, Muggia, and Dolina (48%). The liquidation of the EZIT ended in July 2019, four months after the Agreement with CCCC, and the Consortium controlled by the Port Authority received all of its remaining areas.

This Agreement does directly involve the management of the international Free Port and of the customs port of the present-day Free Territory of Trieste, the temporary civil administration of which is sub-entrusted to the responsibility of the Italian Government under a special trusteeship mandate by the Governments of the United States of

America and of the United Kingdom of Great Britain and Northern Ireland on behalf of the UN Security Council in compliance with the 1947 Treaty of Peace, which is implemented in the Italian legal order in force with a rank superior to that of any other law with the Legislative Decree of the Provisional Head of State No. 1430/1947, ratified with Italian Law No. 3054/1954, with the Decree of the President of the Italian Republic of 27 October 1954 (without number) and with arts. 1, 2, 4, and 70 of Italian Constitutional Law No. 1/1963, as well as with art. 10, first paragraph, art. 117, first paragraph, and art. 120, second paragraph of the Constitution of the Italian Republic.

Instead, it results that the 23 March 2019 Agreement signed in Rome by the President of the Port System Authority (AdSPMAO) and by P.R.C. State company CCCC is based on the assumption, disproved by the law, that the Port of Trieste is a port of the Italian Republic with free zones, and therefore subject to the Italian legislation on national ports, railways, as well as to bilateral Italian-PRC relations, including the reciprocal protection of investments through arbitration (Italian Law No. 109/1987).

Furthermore, the railroads of the present-day Free Territory of Trieste do not belong to the Italian railway network since 15 September 1947 (art. 1, Annex X of the 1947 Treaty of Peace) and Italian railway authorities can only exercise provisional management on them as part of the special trusteeship mandate for the temporary civil administration of the Free Territory that is sub-entrusted to the responsibility of the Italian Government.

Therefore, the enforceability of the 23 March 2019 Agreement signed in Rome by the President of the Port System Authority (AdSPMAO) and by P.R.C. State company CCCC is forbidden within the Italian legal order, and cannot be brought up in contracts or disputes, by the upper-ranking provisions in force of: the Treaty of Peace of 10 February 1947, implemented with the Legislative Decree of the Provisional Head of State No. 1430/1947, ratified with Italian Law No. 3054/1954, the Decree of the President of the Italian Republic of 27 October 1954, without number, and arts. 1, 2, 4, and 70 of Italian Constitutional Law No. 1/1963, as well as by art. 10, first paragraph, art. 117, first paragraph, and art. 120, second paragraph of the Constitution of the Italian Republic, in particular:

- as for the legal status of the international Free Port of Trieste, by art. 2, paragraph 1 of Annex VIII of the Treaty of Peace of 10 February 1947;
- as for the signatory and legal representation powers of the President of the Trieste Port Authority (AdSPMAO), by arts. 18, 19, and 20 of Annex VIII of the Treaty of Peace of 10 February 1947, which establish the body in charge of administering the international Free Port of Trieste, as well as its competences.
- as for the ownership of railroads within the present-day Free Territory of Trieste, by art. 1 of Annex X of the Treaty of Peace of 10 February 1947.

Note: China, then the Republic of China - RoC, is among the Signatories of the Treaty of Peace between the between the Allied and Associated Powers and Italy, signed in Paris on 10 February 1947, and it has lodged its own ratification instruments on 24 November 1947. It follows that the successor States of China as for the obligations and the rights established by that Treaty of Peace respect to its Signatories, and respect to the present-day Free Territory of Trieste and its international Free Port are the Republic of China – RoC (Taiwan) and the People’s Republic of China (People’s Republic of China – PRC).

In view of all that is been explained, addressed, and premised, the International Provisional Representative of the Free Territory of Trieste – I.P.R. F.T.T. [*Rappresentanza Internazionale Provvisoria del Territorio Libero di Trieste – Začasno Mednarodno Predstavništvo Svobodnega Tržaškega Ozemlja – Provisorische Internationale Vertretung des Freien Territoriums Triest*], represented by its Secretary General and legal representative Paolo G. Parovel, and Paolo G. Parovel in person, both as legitimized, represented and defended *ut supra*,

SUMMON:

- 1) the Italian Government, represented by the President of the Council of Ministers *pro tempore*;
- 2) the Office of the Commissioner of the Government in Region Friuli Venezia Giulia, represented by the Commissioner *pro tempore*;
- 3) the Trieste Prefect Office - Territorial Office of the Government, represented by the Prefect *pro tempore*;
- 4) the Ministry of Infrastructures and Transport, represented by the Minister *pro tempore*;
- 5) the Trieste Port Authority, now “Port System Authority of the Eastern Adriatic Sea”, represented by its President or Commissioner *pro tempore*;
- 6) the Ministry of Economy and Finance, represented by the Minister *pro tempore*;
- 7) the State Property Agency, economic public body of the Italian Ministry of Economy and Finance, represented by its Director *pro tempore*;
- 8) Region Friuli Venezia Giulia, represented by its President *pro tempore*;
- 9) the Municipality of Trieste, represented by the Mayor or by the Commissioner *pro tempore*,

as identified and hosted at the addresses given above, are invited to appear before the Court of Trieste, at its site in *Palazzo di Giustizia*, Foro Ulpiano 1, at the hearing to be held on **6 April 2020**, at the given hour, before the Judge to be nominated, under and in the manners prescribed by article 166 of the Italian Code of Civil Procedure, within 20 days before the first hearing set with this act, and minding that failure to appear within that term gives raise to the disqualifications at arts. 38 and 167 of the Italian Code of Civil Procedure, as well as being warned them that, in case of failure to appear, the Court is to proceed in default of appearance, for the Court itself to uphold the following

CONCLUSIONS:

IN THE MERIT:

to preliminarily assess:

a) that, to this date as on the date of the judgment, the following legal instruments of the Italian legal order, which implement and enforce, without reserves, the Treaty of Peace between the between the Allied and Associated Powers and Italy, signed in Paris on 10

February 1947, as well as the obligations of the additional Memorandum of Understanding signed in London on 5 October 1954 regarding the special trusteeship mandate (temporary civil administration) of the present-day Free Territory of Trieste, sub-entrusted to the responsibility of Italian Government by the Governments of the United States and of the United Kingdom in their role of primary Governments on behalf of the UN Security Council, are in force: Legislative Decree of the Provisional Head of State No. 1430/1947; Law No. 3054/1952; Decree of the President of the Republic of 27 October 1954 (without number), Italian Constitutional Law No. 1/1963, arts. 1, 2, 4, 70, and Italian Law No.1203/1957;

b) that within the Italian legal order in force those legal instruments have the highest rank in the hierarchy of the sources of Italian law, both under pre-Constitutional, autonomous legislation (art. 2 of the Legislative Decree of the Provisional Head of State No. 1430/1947, ratified with Italian Law No. 3054/1954) and under the Constitutional principles and legislation established after their enforcement (art. 10, first paragraph, art. 117, first paragraph, and art. 120, second paragraph of the Constitution of the Italian Republic);

c) the effectiveness of the obligations implemented under those legal instruments, as reconfirmed, in particular, in the enforcement of the temporary civil administration of the present-day Free Territory of Trieste and of its international Free Port:

– by the inter-ministerial Decree on the *Organizzazione amministrativa per la gestione dei punti franchi compresi nella zona del porto franco di Trieste // Administrative organization for the management of the free zones included within the area of the Free Port of Trieste*, issued on 13 July 2017 by the Italian Ministry of Infrastructures and Transport together with the Italian Ministry of Economy and Finance, in compliance with the obligations established at art. 6, paragraph 12 of Italian Law No. 84/1994 and with the sub-mandate of temporary civil administration of the Free Territory of Trieste that enforces the 1947 Treaty of Peace;

– by paragraph 66 letter b) of art. 1 of the Budget Law of the Italian State No. 205/2017, in force since 1 January 2018, which does directly prevent the enforcement of paragraphs 618, 619, and 620 of Italian Law 190/2014 by expressly subordinating the envisioned transfer of the international free port regime to the upper-ranking provisions of the 1947 Treaty of Peace, implemented in the Italian legal order with the Decree of the Provisional Head of State No. 1430/1947, ratified with Italian Law 3054/1952, that prevent such measures.

– by the other legislative and administrative acts listed at section N (pages 58-65) of the review of laws attached to this writ of summon as document 3.

to ascertain and declare:

the unenforceability, thus inapplicability, within the Italian legal order in force, either *ab origine* or supervening, due to conflicting with the provisions of upper-ranking laws in force within the same Italian legal order:

1) of paragraphs 618, 619, and 120 of article 1 of Italian Law 190/2014 and their amendments, including also the Decree of the Commissioner of the Government registered as No. 19/8-5/2016 of 26 January 2016;

- 2) of the provisions at art. 3, paragraph 2 of the Decree of the President of the Italian Republic No. 107/2009;
- 3) of the establishment and collection of excise duties of the Italian State on fuels, combustibles (including gas) and electricity imported, exported, used, or produced within the present-day Free Territory of Trieste or within its international Free Port;
- 4) of the extension of the Municipal taxes on real estates to the international Free Port of Trieste;
- 5) of the provisions of the inter-ministerial Decree of 13 July 2017 (Official Gazette of the Italian Republic No. 177 of 31 July 2017) that assign the administrative management of the areas of the Free Port of Trieste to the President of the Italian Port System Authority of the Eastern Adriatic Sea;
- 6) of any normative or administrative act, including contracts, that enforces the «*Accordo di cooperazione fra Autorità di Sistema Portuale del Mare Adriatico Orientale – porti di Trieste e Monfalcone e China Communications Construction Company*» // «Cooperation agreement between the Port System Authority of the Eastern Adriatic Sea - Ports of Trieste and Monfalcone and China Communications Construction Company» signed in Rome on 23 March 2019 by the President of the Trieste Port System Authority of the Eastern Adriatic Sea, regarding either areas and assets of the port or controlled by the Port Authority, including railways, or extensions and transfers of the regime of international free port;

and, consequently, to rule

as for the assessments and declarations sub a), to cancel from the Land Registry Book the Land Registry Decree registered *sub* GN 12394/16 issued on 22 December 2016, in force since 31 December 2016, that registers in the name of the Municipality of Trieste the assets included within the following Land Registry Particles: **Land Registry Particles No. 90645 in Trieste, 1st land registry body, No. 7538 in Gretta, 1st land registry body, and No. 4670 in Barcola, 1st land registry body**, and also eventual, new Land Registry Particles deriving from these.

AS A PRELIMINARY AND PRECAUTIONARY MEASURE,

in case the addressed authorities have not already taken care of that in self-defense, in view of the civil, criminal, administrative liabilities, and in view of the extraordinary entity of the damages to the revenues of the State and to third parties manifestly connected to or deriving from the evident breaches of law addressed in this writ of summon, the determination and remediation of which is requested to the Court,

to suspend, whilst the proceedings are pending

a. the efficacy of the Land Registry Decree registered *sub* GN 12394/16 issued on 22 December 2016 and in force since 31 December 2016, regarding the registration in the name of the Municipality of Trieste of the immovable properties included within the following, Land Registry Particles: **Land Registry Particles No. 90645 in Trieste, 1st land registry body, No. 7538 in Gretta, 1st land registry body, and No. 4670 in Barcola, 1st land registry body**, and also eventual, new Land Registry Particles deriving from these;

b. all acts and expenditures issued or planned by the summoned parties, especially by the Municipality of Trieste, both on its own behalf or that of third parties, regarding the public properties registered for the first time within the Land Registry Book with the Land Registry Decree registered *sub* GN 12394/16 issued on 22 December 2016 and in force since 31 December 2016, registering in the name of the Municipality of Trieste the immovable properties included within the following Land Registry Particles: **Land Registry Particles No. 90645 in Trieste, 1st land registry body, No. 7538 in Gretta, 1st land registry body, and No. 4670 in Barcola, 1st land registry body**, and also eventual, new Land Registry Particles deriving from these;

except for acts and expenditures regarding the maintenance necessary to keep those assets in the same conditions as they were when the Municipality received them from the Port Authority for the purposes established at paragraph 619 of art. 1 of Italian Law 190/2014 and its amendments,

and except for acts and expenditures aimed at the prevention or remediation of damages to those assets, of risks for public safety, of breaches of the law, or of any other disturbance of law and order.

Attorney and other legal fees to be refund under the law.

The International Provisional Representative of the Free Territory of Trieste – I.P.R. F.T.T. and all other international subjects concerned reserve the full right to address the authorities and to recall the procedures of international law identified and established under the Treaty of Peace with Italy of 10 February 1947 or with other international conventions, to impugn and to dispute the same alleged violations, or other connected, at any moment in case the time, development, or outcomes of the present legal action or of the possible negotiations on the matter prove to be inefficacious to protect the legitimate interests represented.

Also giving notice to the summoned parties that they can reach an agreement with the claimants to settle the crisis; or they can suggest a settlement plan with the support of a settlement body or of a Court-appointed professional.

ANNEXES:

(to the original legal document, in Italian unless otherwise specified)

1. Authentic versions of the Instrument of constitution of the I.P.R. F.T.T. (in English and in Italian), and its Italian fiscal code.
2. Self-declaration of Paolo G. Parovel's citizenship and his records from the Chamber of Commerce, Industry, Craft Trades and Agriculture of Trieste.
3. Italian version of the review of Laws SG/2017/LC/M-V regarding Italian laws on the subject of this legal action for demonstration.
4. Decree of the Commissioner of the Italian Government No. 19/8-33/2015 issued on 13 March 2015, extending the international free port regime to a new area (concession to Samer Seaports & Terminal s.r.l.).

5. Italian Chamber of Deputies: Agenda No. 9-2679-bis-B/134 of 22 December 2014, items presented by deputies Massimiliano Fedriga and Sandra Savino about amendments to Italian Budget Law No. 190/2014.
6. Italian Chamber of Deputies: transcript of the seating held on 22 December 2014, pages 20, 51-52 and 106-107 (statements by M.Fedriga, S.Savino, and E.Rosato).
7. Identical amendments presented in 2012 (by E.Rosato, R.Antonione, and R.Menia), ultimately rejected as inadmissible by the Italian Parliament.
8. Decree of the Commissioner of the Italian Government in Region Friuli Venezia Giulia No. 19/8-5/2016, dated 26 January 2016 and enforcing paragraph 618 of Italian Law No. 190/2014.
9. Land Registry Decree registered *sub* GN 12394/16, dated 22 December 2016, assigning the ownership of the assets in question to the Municipality of Trieste.
10. Pending Land Registry Dispute registered *sub* GN 8189/19 requesting the registration in the Land Registry Book of the constraint binding the Municipality to sell the port assets in question and transfer all revenues to the Port Authority.
11. Pending Land Registry Dispute registered *sub* GN 8190/2019, requesting that cancelation from the Land Registry Book of the Decree registered *sub* GN 12394/16, dated 22 December 2016, which assigns the ownership of the port assets in question to the Municipality.
12. Pending Land Registry Dispute registered *sub* GN 8878/19, requesting that cancelation from the Land Registry Book of the Decree dated 24 July 2019, regarding the transfer of a leasehold estate.
13. Criminal complaint dated 25 October 2019.
14. Northern Free Port: panorama picture; chart A of the Decree of the President of the Italian Republic No. 714/1969; pertinent abstract from the General Regional Urban Plan in force.
15. Circular Letter of the Italian Presidency of the Council of Ministers of 29 October 1954 (Official Bulletin of the Italian Minister of the Interior No. 12 – December 1954, page 639).
16. Cooperation agreement between the “Port System Authority of the Eastern Adriatic Sea - Ports of Trieste and Monfalcone” and “China Communications Construction Company” signed in Rome on 23 March 2019.

It is noted that the value of this claim cannot be defined; therefore the unique contribution is set in EUR 518,00.

Trieste, 5 December 2019

[signatures: omissis]

MANDATES:

[omitted in this English translation]

ACKNOWLEDGEMENTS OF RECEIPT:

[omitted in this English translation]