

I.P.R. F.T.T. Member State *de jure*
of the United Nations

International Provisional Representative of the FREE TERRITORY OF TRIESTE

Rappresentanza Internazionale Provvisoria del Territorio Libero di Trieste
Začasno Mednarodno Predstavništvo Svobodnega Tržaškega Ozemlja
Provisorische Internationale Vertretung des Freien Territoriums Triest

SG/2021/03/01-en

4 March 2021

To Mr. Minister to Economy and Finance of the Italian Government,
Daniele Franco

To Mr. Minister to Infrastructures and Transport of the Italian Government,
Enrico Giovannini

note sent via certified email

and, for information:

to Senator Matteo Richetti

**Subject: question about the international Free Port of Trieste addressed by
Senator Richetti to the Italian Government**

On February 17th, 2021, Italian Senator Matteo Richetti addressed the Italian Government's Minister of Infrastructures and Transport and the Minister of Economy and Finance requesting a written answer about the legal relationships between the international Free Port of Trieste and the customs procedure of the EU.

The question is based on three main statements: that the free port of Trieste is included in the list of free zones within the customary territory of the EU, that the Italian Government would have failed to inform the EU of that port's international legal status, and that this failure prevents the effective enforcement of said legal status.

It is duly to thank Senator Richetti for his interest in the port of Trieste, however, it is necessary clarifying that the aforementioned three statements are incorrect, because it is not true that the international Free Port of Trieste is among the EU's free zones, and it is not true that the Italian Government failed to inform the EU about the ports' special legal status.

Due to this, it came as a surprise that, on March 2nd, the deceptive question received the public endorsement of the President of the Trieste Port Authority in office, Zeno D'Agostino, who, by virtue of his roles, should have perfect knowledge of the subject.

As for the first statement, one must know that the international Free Port of Trieste is not (and cannot be) included in the EU's custom territory, because the 1947 Treaty of Peace with Italy establishes it as a State corporation of the Free Territory of Trieste, over which, since 1954, the Italian Government exercises a special

trusteeship sub-mandate in the form of a temporary civil administration, and thus it has also accepted, with official acts, the deriving responsibilities of international representation before Community authorities.

The true omission committed by the Italian Government is, instead, failing to conclude, exercising the aforementioned role, specific agreements between the administered Free Territory and the EU, not even when it comes to the international Free Port, and despite being legally bound to conclude them.

Indeed, the Treaty of Peace of 10 February 1947 is an upper-ranking, binding instrument of law both in the Italian legal order, which fully implements it under the Legislative Decree of the Provisional Head of State No.1430/1947, ratified under Law No. 3054/1952, and in Community Law (*ab origine* by virtue of arts. 307 TEC, then 234 TEEC, now 351 TFEU), which is itself binding for the Italian legal order (arts. 10, 11 second part, and 117, first paragraph of the Italian Constitution).

This is why Commission Regulations EC 2151/84, EU 450/2008, and EU 952/2013, as well as Special report No 2/93 to the European Court of Auditors define Community territory for customs and taxation with their own lists of the national territories and of the free zones of EU Member States, and said lists do not include the Free Territory of Trieste and its international Free Port, being it as independent entities or as customs territory or “custom-free” of Italy or of the EU.

As for the second statement, one must know that when Council Directive 69/75/EEC of 4 March 1969 “on the harmonisation of provisions laid down by law, regulation or administrative action relating to free zones” was adopted, the Council of the European Communities as well as the European Commission recognized, with a Statement for minutes, the different pre-EU and extra-EU legal status of the international Free Port of the present-day Free Territory of Trieste, sub-entrusted to the temporary civil administration of the Italian Government.

With this Statement for minutes, the European Council and the European Commission recognize, *«Following communication from the Italian delegation and in regard to Art. 234 of this Treaty»* the TEEC *«that: 1. the Free Port of Trieste has been established under Annex VIII of the Treaty of Peace between Italy and the Allied and Associated Powers signed in Paris on 10 February 1947, and has been the subject of the Memorandum of Understanding of London of 5 October, 1954»*. This being the instrument with which the Governments of the US and of the UK have sub-entrusted its administration to the Italian Government.

In the Italian legal order, Directive 69/75/EEC is enforced by virtue of the Decree of the President of the Italian Republic No. 1133/69, and the declaration of the European Council of the European Commission is recalled in Note No. 3722/3522 issued by the Italian Ministry of Finances on 11 January 1991, to confirm that Italy’s international obligations on the subject.

The Decree of the President of the Italian Republic itself is crystal clear about it: «The President of the Italian Republic - In view of the Treaty establishing the

European Economic Community, ratified with Law No.1203 of 14 October 1957; [...]; In view of Legislative Decree of the Provisional Head of State No.1430 of 28 November 1947, which enforced the Treaty of Peace with Italy between Italy and the Allied and Associated Powers, signed in Paris on 10 February 1947 [...]; In view of necessity to adjust legislation in force to European Directives 69/73/EEC, 69/74/EEC, and 69/75/EEC; Rules: [...] Article 32: as for the free ones included within the Free Port of Trieste referred at Annex VIII of the Treaty of Peace with Italy between Italy and the Allied and Associated Powers, signed in Paris on 10 February 1947 and enforced in the Italian legal system with Legislative Decree of the Provisional Head of State No.1430 of 28 November 1947, the more favourable provisions in force shall remain unchanged by derogation from the preceding clauses.»

Finally, not only the Italian Government has not omitted to inform the EU about the special legal status of the international Free Port that is entrusted to its management as part of the sub-mandate of temporary civil administration of the present-day Free Territory of Trieste, but it has confirmed it once again its full legal force and effectiveness with the recent interministerial Decree (without number) issued on 13 July 2017 and regarding the administrative management of the free zones included in the area of the Free Port of Trieste.

The Decree is issued by the Ministry of Infrastructures and Transport together with the Ministry of Economy and Finance, in compliance with the obligations at 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*».

As for the third statement, the truth is that the effective obstacles to the correct management of the international Free Port of Trieste do not depend on the Italian Government, not on the European Union, rather, they depend on Trieste itself, in particular, by the unlawful actions of a local system of corruption that seriously affects the local bodies of the Italian administration, as well as providing misleading information to the Government itself.

Essentially, it is a political-economic local “mafia” that, by acting that way, keeps the Question of Trieste and of the international Free Port in a state of ambiguity, misinformation, and overall ignorance, in order to scandalously profit from systematic violations of the laws on the subject, of international law, and of the political and economic rights of the people of the Free Territory.

The economic and social damages caused by the actions of that system of corruption are so serious that this Representative had to summon the sub-administering Italian Government and some of its Ministries before Court, seeking the legal demonstration of the legislation enforceable in Trieste as for taxation, the collection of the VAT, and the management of the international Free Port, as well as illegal

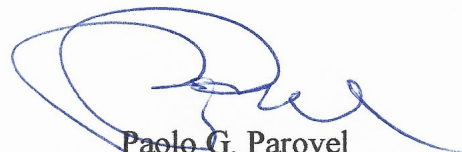
agreements with the People's Republic of China (see the Writ of Summon attached to this note).

The current state of those lawsuits has already provided documental evidences of the degree of influence of the local "mafia" on the Italian judiciary that serves its duties in Trieste.

As for the management of the international Free Port, this Representative did also have to open an exchange of letters with the European Commission and to submit an official intervention in Procedure State aid SA.38399 (2018/E) regarding the taxation of Italian ports.

Senator Richetti and all other Italian parliamentarians who are willing to seriously question their Government about the evident sabotage of the extraordinary economic roles of the international Free Port of Trieste should, therefore, address it to know why, in Trieste, the local system of corruption and illegality has not been investigated and eradicated yet using the same investigative and judicial instruments that are used against traditional mafias.

Especially considering that, when it comes to Trieste, the unpunished local corruption prevents the correct enforcement of a special trusteeship mandate that is sub-entrusted to the Italian Government by the Governments of the US and of the UK on behalf of the UN and for the best interest of the administered population.



Paolo G. Parovel
I.P.R. F.T.T. Secretary General