



International Provisional Representative of the
FREE TERRITORY OF TRIESTE

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

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

SG/2016/06/LC-en

19 December 2016

To the Service of the Land Registry Book in Trieste – Land Registry Office

administered by Region Friuli Venezia Giulia pursuant to articles No. 4.5 and 70
Constitutional Law No. 1/1963 (Official Bulletin No. 7/1963 of the General
Commissioner of the Italian Government for the Territory of Trieste – *see annex 1*)

LAND REGISTRY REQUEST

presented by the **International Provisional Representative of the Free Territory of Trieste – I.P.R. F.T.T.**, through its legal representative Paolo G. Parovel, with address for service in Trieste, piazza della Borsa 7, c/o Trieste Libera (*see annex 2, Instrument of constitution*), to protect the legitimate interests of citizens of the present-day Free Territory of Trieste and of other States entitled with special and general rights over the international Free Port of Trieste,

FOR REGISTRATION

to be performed also *ex officio*

in compliance and pursuant to the Land Registry Law - New text of the general law on land rights, arts. No. 2.3, 8.3, No. 20 letter h) and No. 52 second paragraph, and of Regional Law of Friuli Venezia Giulia No. 19/2010, arts. 2.1.b), 4, 10, of titles of ownership, use constraints, and rights of third parties which are established, recognized, and enforced with specific laws, in force, of the legal order of the Italian Republic as mandatory international obligations for all of its bodies, also in derogation of domestic laws (Legislative Decree of the Provisional Head of State No. 1430 of 28 November 1947, art. 2) and prevailing on those by Constitutional order (Constitution of the Italian Republic, art. 10, first paragraph, and art. 117, first paragraph).

regarding all immovable properties registered in the Land Registry Book for the first time within **Land Registry parcel 90645 in Trieste**, 1st land registry body, **Land Registry parcel 7538 in Grotta**, 1st land registry body, and **Land Registry parcel 4670 in Barcola**, newly established by the decree registered under GN 12394/16 of 22 November 2016 with ownership registered in the name of the applicant: “*Comune di Trieste – con sede in Trieste*” (Municipality of Trieste - located in Trieste) omitting the *procedura di regolazione* [correction of the registration of ownership / *Richtigstellung*] which should have verified the original ownership rights, constraints, and the rights of third parties on the same assets, and in force under the Land Registry Law from 31 December 2016.

The decree was issued lacking this verification at the end of the procedure of completion of the Land Registry Book No. “4/COMP/2016”, to which this Representative participated as legitimized, opposing party (*see annex 3*).

The immediate registration of the above mentioned rights *in rem*, which existed before and still exist by law, is therefore requested as first, partial legal remedy to their omission, without prejudice to the ordinary and international legal disputes brought forward by either this Representative or other subjects bearing legitimate interests, unless the decree registered *sub* 12394/16 or the request of registration of ownership presented by the Municipality are withdrawn in self-protection.

Being the titles establishing the right *in rem* to be registered pursuant to this request laws in force, it is a duty of administrative and judicial bodies who are entrusted with keeping and regulating the Land Registry Book knowing them and enforcing them, even *ex officio*. Anyways, to make it easier examining them, copies of abstract from the Italian Official Gazettes are annexed to this request (*see annexes from 4 to 10 and annexes 13 and 14*).

1. This request of registration in the Land Registry Book is presented in the general public interest and in the legitimate interests of this International Provisional Representative of State to grant, also with the real estate publicity following the registration itself, the full respect of the constraints established by law and of the rights

of third parties established on the above mentioned assets by the following sources of law in force, also in derogation of domestic law and prevailing on it by Constitutional law:

a) Treaty of Peace with Italy signed at Paris on 10 February 1947 (United Nations Treaty Series - UNTS, Vol. 49, No. 747), in compliance with arts. 4, 21, 22, 48 No. 5, 78 No.7, 79 No. 6 g, 85 and of 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), with the approval and under the protection of the United Nations Security Council with Resolution S/RES/16 (1947), (*see annexes 4 and 5*).

b) the Laws ratifying and enforcing fully and without reserves the same Treaty of Peace in the Italian legal order in force:

– **Law No. 811 of 2 August 1947** (Italian Official Gazette No. 200 of 2 September 1947 - *see annex 6*);

– **Legislative Decree of the Provisional Head of State No. 1430 of 28 November 1947** (Italian Official Gazette No. 295 of 24 December 1947 and its Ordinary Supplement - *see annex 7 and 8*), ratified with **Italian Law No. 3054 of 25 November 1952**, Italian Official Gazette No. 10 of 14 January 1953 - *see annex 9*) and extended to the legal order of the Provisional Regime of the present-day Free Territory of Trieste with Official Bulletin of the General Commissioner of the Italian Government for the Territory of Trieste No. 17 of 11 June 1956 (*see annex 10*).

2. Therefore making it evident:

a) that the Treaty of Peace with Italy of 10 February 1947, as ratified fully and unreservedly in the legal order in force of the Italian Republic establishes, at article 34 of its Annex VI – Permanent Statute of the Free Territory of Trieste, a Free Port administered following the provisions of Annex VIII, drawn up by the Council of Foreign Ministers and approved by the Security Council with Resolution S/RES/16 (1947);

b) that since September 15th, 1947, this instrument for the Free Port of Trieste establishes its legal personality, boundaries, assets, constraints of use, international regime, and the rights of third parties (see in particular arts.1, 2, 3, 5, 6, 7, 10, 11, 21, 22, 23, 24 of Annex VIII 1947 Treaty of Peace of Paris);

c) that pursuant to article 2, paragraph 4 of Annex VII, all provisions regarding the international Free Port that prove to be compatible with it are to be enforced also in the current Provisional Regime;

d) that the Treaty of Peace with Italy, as well as the Italian laws that ratify and implement it in full and with no reserves were never abrogated;

e) that the enforcement of their provision is therefore an international obligation in force of the Italian Republic, thus of all of its body, also in derogation (Legislative Decree of the Provisional Head of State No. 1430/1947, article 2 (*see annex 7*) of Italian laws falling under the competences of the State or the Regions, and it prevails on them (arts. 10, first paragraph, and 117, first paragraph of the Italian Constitution);

f) that the obligation to maintain the international Free Port of Trieste in general accordance with articles 1 to 20 of Annex VIII 1947 Treaty of Peace of Paris is also an international obligation accepted by the Italian government with the mandate of temporary civil administration over the present-day Free Territory of Trieste, as received by the Governments of the United States of America and of the United Kingdom of Great Britain and Northern Ireland with the *Memorandum of understanding regarding the Free Territory of Trieste* signed in London on 5 October 1954 and enforced in the legal system of the Italian Republic pursuant to Decree of the President of the Italian Republic of 27 October 1954, published in the Italian Official Gazette of 28 October 1954 No. 249, and Italian Constitutional Law No. 1/1963, arts. 2, 4 and 70 (*extended to the Free Territory as described in annex 1*);

g) that for those reasons, all bodies of the Italian Republic must grant the execution, and prevent the breach of the provisions of the Treaty of Peace regarding the Free Port of Trieste, as implemented and in force within the Italian legal order by virtue of Legislative Decree of the Provisional Head of State No. 1430/1947 ratified with Italian Law No. 3054/1952, also in derogation to domestic Italian laws and prevailing on it by Constitutional law, including the requests recalled in the Decree registered sub 12394/16 (Italian Law No. 190/2014, art. 1, paragraphs 618, 619 e 620, and Italian Royal Decree 499/1929);

h) that the provisions of the multilateral Treaty of Peace with Italy, including those regarding the international Free Port of Trieste, cannot be legally amended by unilateral or bilateral acts, nor with administrative acts;

i) that therefore this International Provisional Representative of State has taken care:

- to invite, on 27 June 2016, the Municipality of Trieste to withdraw the request of registration of the rights and constraints established by the Treaty of Peace as ratified and implemented in the Italian legal system in self-protection (*see annex 11*);
- to invite, on 27 June 2016, the Commissar of the Italian Government in Region Friuli Venezia Giulia to revoke for reasons of in self-protection commissarial decree No. 19/8-5/2016 concerning the port area that includes those assets (*see annex 12*);
- to properly intervene, since 29 June 2016, in the procedure of completion of the Land Registry Book registered sub “4/COMP/2016”, questioning its legitimacy and requesting it be notified also to all other States entitled with rights over the assets in question;

j) that, in compliance with those international obligations of both the Italian Republic and of the Italian Government, the assets that since 15 September 1947 belong to the international Free Port of Trieste, including those subject to the present request, were entrusted to the temporary administration of the territorial offices of the Italian State Property Office of the and of the following public bodies:

- “Magazzini Generali di Trieste”, with Decree No. 29/1955, art. 10, of the General Commissioner of the Italian Government for the Territory of Trieste (*see annex 13 a*);
- “Ente autonomo del porto di Trieste” (Autonomous Body for the Port of Trieste) with Italian Law No. 589/1967, art. 3 No. 9 and art. 24 (*see annex 13 b*) amended with Italian Law No. 822/1971 and organized again with Decree of the President of the Italian Republic No. 714, article 6 of 2 October 1978 (*see annex 13 c*);
- “Autorità Portuale di Trieste” (Port Authority of Trieste), with Italian Law No. 84/1994, art. 6 nNo.1 and 12 (*see annex 13 d*) and organized again with Decree of the President of the Italian Republic No. 169, article 7 of 4 August 2016 (published in the Italian Official Gazette No. 203 of 31 August 2016) as “Autorità di Sistema Portuale dell'Adriatico Orientale” (Authority of the Eastern Adriatic Port System);

k) that, therefore, the registration of the assets of the international Free Port of Trieste and of the pertinent legal constraints and rights of third parties in the *Elenco del Bene Pubblico* (List of Public Properties) at the Land Registry Office of Trieste (*see annex 14*) was and still is a legal obligation of the heads of those public administrations, like for the Land Registry Office of Trieste;

l) that so far it results that the same bodies and offices omitted to register the ownership of the public assets of the Free Port of Trieste, of their constraints, and of the rights of third parties;

m) that so far it results that the *procedura di regolazione* [correction of the registration of ownership / *Richtigstellung*] that should have automatically verified the property, constraints, and the rights of third parties over the assets that should be registered as properties of the “Municipality of Trieste” was omitted pursuant to the decree registered sub GN 12394/16, which declares this omission;

n) that being its properties, constraints, and rights established by prevailing legal titles, their registration on the Land Registry Book, which is requested with the present question, must now be implemented, also *ex officio*, at care and under the responsibility of each of the competent public bodies, including the Land Registry Office, as well as its administrators and officers;

o) that this duty and responsibility is confirmed by previous acts of the Land Registry Office, in compliance with the provisions of the Treaty of Peace with Italy regarding ownership as for the Free Territory of Trieste, including the registration sub GN 1822/1949, on request of the Attorney of the State, and the act of reinstatement, sub GN 5851/1995, at the initiative of the Land Registry Office;

p) that all assets registered *ex novo* on the Land Registry Book with decree GN 12394/16 as part of Land Registry parcel 90645 in Trieste, *corpo tavolare* (Land Registry Body) 1°, Land Registry 7538 in Greta, *corpo tavolare* (Land Registry Body) 1° and Land Registry parcel 4670 in Barcola, which are subject to this request of registration, to be performed also *ex officio*, are notoriously included within the 1939 boundaries of the free zones of the Port of Trieste, and therefore are assigned to the Free Port of Trieste by art. 3, No.1 of Annex VIII of the 1947 Treaty of Peace;

q) that in compliance with the above mentioned international obligations of the Italian Republic and of the Italian Government, the inclusion of those assets in the areas that belong to the international Free Port of Trieste was stated, in particular:

– with Decree No. 29/1955 of the General Commissioner of the Italian Government for the Territory of Trieste, art. 1.1, which at article 4 confirms that those free zones are considered outside the custom border, and at article 16 confirms that the international regime of Free Port in those zones cannot be moved or reduced, but only extended to new areas (*see annex 13a*),

– with Decree of the President of the Italian Republic No. 714, article 6 and map A (*see annex 13 c*).

r) that therefore this Representative has correctly introduced in proceeding “4/COMP/2016” those legal facts regarding the ownership title of the assets, as well as the constraints and the rights of third parties over them;

s) that the decree sub GN 12394/16, which orders registering the ownership of those assets in the name of the Municipality of Trieste as part of the newly-established tabular particle mentioned above, instead of declaring those legal facts, omits *procedura di regolazione* [correction of the registration of ownership / *Richtigstellung*] that should have verified those, and comes into legal force on December 31st, 2016.

3. For those reasons, without prejudice for further defenses of wither this Representative and other legal subjects entitled with legitimate rights with ordinary and international legal disputes, including the compensation of the damages (being the value of the assets esteemed from EUR 1.5 to 3 billions, while their functional value is incalculable) and the civil and criminal responsibility that can be found in the facts,

and considering that the reception of this request does not require preliminary verifications of the jurisdiction of State, because the constraints and rights the registration of which is requested on the Land Registry Book are established by laws in force in both international law, in the legal system of the Italian Republic, and in the legal order of the present-day Free Territory of Trieste entrusted to the temporary civil administration of the Italian Government;

requesting the immediate registration

on the Land Registry Book, for all of the immovable properties included in the newly-established Land Registry parcel 90645 in Trieste, 1st land registry body, Land Registry parcel 7538 in Gretta, 1st land registry body, and Land Registry parcel 4670 in Barcola, by virtue of the decree registered under GN 12394/16 of 22 November 2016, the following constraints and rights of third parties, which are established *ex lege* also in derogation to domestic Italian law and prevail on it, therefore are to be performed also *ex officio* following the procedures that fall under the duties of the Land Registry Judge and to the Coordinator of the Land Registry Book:

A) registration that, pursuant to article 3, No. 1 of Annex VIII TdP1947, as ratified and implemented without reserves in the legal order in force of the Italian Republic, those assets c are notoriously included within the 1939 boundaries of the free zones of the Port of Trieste, and therefore are assigned to the Free Port of Trieste, as confirmed and preserved also with Decree No. 29/1955 of the General Commissioner of the Italian Government for the Territory of Trieste, art. 1.1 which refers to them as the «Old Free Zone with piers from 0 to IV» as well as «New Free Zone with piers V and VI» outside the custom border (art. 4), which can be extended (art. 16), but not moved away or reduced, and with Decree of the President of the Italian Republic No. 714, article 6 and map A;

B) registration that, therefore, the constraints of use and ownership, as well as the rights of third parties on those assets are established and regulated *ex lege* by the provisions of Annex VIII 1947 Treaty of Peace of Paris, as ratified and enforced fully and without reserves in the Italian legal order in force: Law No. 811 of 2 August 1947 (Italian Official Gazette No. 200 of 2 September 1947); Legislative Decree of the Provisional Head of State No. 1430 of 28 November 1947 (Italian Official Gazette No. 295 of 24

December 1947 and its Ordinary Supplement), ratified with Italian Law No. 3054 of 25 November 1952 (Italian Official Gazette No. 10 of 14 January 1953) and extended to the legal order of the Provisional Regime of the present-day Free Territory of Trieste with Official Bulletin of the General Commissioner of the Italian Government for the Territory of Trieste No. 17 of 11 June 1956;

C) registration that, consequently, among those constraints and rights are especially included and in legal force, since the date of the coming into force of the Treaty of Peace with Italy (15 September 1947):

a) the constraint of use of those assets for the use as Free Port of Trieste with an international regime, to which the ships and freights of all States have rights without restrictions or discriminations (Annex VIII of the 1947 Treaty of Peace: art. 1 letter a) and No. 2; art. 5, No. 1; art. 6; art. 7; art. 10; art. 11);

b) the prohibition to establish in the area consisting in those assets special zones subject to the exclusive jurisdiction of any State (Annex VIII of the 1947 Treaty of Peace, art. 3, No. 2);

c) the constraint to ownership of the assets, pursuant to the transfer *ex lege*, without payment, of the ownership of those assets to the Free Port of Trieste, established and provided with legal personality as a State corporation of the Free Territory of Trieste (Annex VIII of the 1947 Treaty of Peace, art. 2. No.1 and No. 2, with reference to Art. 1 of Annex VIII);

d) the rights and the powers of control on the management of those properties, with an International Commission (Annex VIII of the 1947 Treaty of Peace, arts. 21, 22, 23) by Representatives of the following States: Free Territory of Trieste, France, the United Kingdom of Great Britain and Northern Ireland, the Union of Soviet Socialist Republics, the United States of America, the People's Federal Republic of Yugoslavia, Italy, Czechoslovakia, Poland, Switzerland, Austria and Hungary (and all of their eventual Successor States), provided that such State has assumed the obligations of Annex VIII of the 1947 Treaty of Peace pursuant its article 26;

e) the obligation to subject to the procedures for the settlement of disputes established at art. 24 of VIII of the 1947 Treaty of Peace any dispute regarding those assets *per se*, the interpretation or the execution of Annex VIII itself.

This Provisional Representative of State reserves the right to inform, also after the outcome of this request, the Governments of the other States entitled with legitimate rights and interests on the matter, as well as commercial, logistic, industrial and financial companies concerned.

Also, this Representative requests that in case the requested registration is denied, the Land Registry Judge takes prompter care to protect public confidence as well as the very relevant legal and economic rights of the public, international and private subjects involved, now and in future, by declaring the contextual suspension of Decree 12394/16 in self-protection, until it is revoked or ultimately clarified at the end of the legal dispute before competent Courts and following the proper procedures.

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

To be notified:

- to the I.P.R. F.T.T. - International Provisional Representative of the Free Territory of Trieste, to its address in Trieste, piazza della Borsa 7, c/o Trieste Libera;
- to the Municipality of Trieste, with office in Trieste, piazza dell'Unità 4;
- to all other competent Offices and Bodies.

Documents attached to the present request of registration:

1- Legislative extension of Italian Constitutional Law No. 1/1963 to the legal order of the Free Territory of Trieste with Official Bulletin No. 7 of March 11th, 1963 of the General Commissioner of the Italian Government for the Territory of Trieste.

2-Instrument of Constitution of the I.P.R. F.T.T. (authentic Italian and English texts).

3-Legitimation of the parties (applicant and opponent) involved in the procedure for the completion of the Land Registry Book “4/COMP/2016”.

4-Treaty of Peace with Italy of 10 February 1947, in United Nations Treaty Series, Vol. 49, No. 747: abstracts regarding arts. 4, 21, 22, 48 No. 5, 78 No.7, 79 No. 6 g), 85, 87 and Annexes VI, VII, VIII and X, authentic English text and official Italian version.

5–Resolution S/RES/16 (1947) part of the documents of the United Nations Security Council (authentic English text).

6–Law No. 811 of 2 August 1947, authorizing the Government of the Italian Republic to ratify the Treaty of Peace with Italy of 10 February 1947, included in the Italian Official Gazette No. 200 of 2 September 1947;

7– Legislative Decree of the Provisional Head of State No. 1430 of 28 November 1947, executing the Treaty of Peace with Italy of 10 February 1947;

8–Treaty of Peace with Italy of 10 February 1947 - abstracts regarding arts. 4, 21, 22, 48 No. 5, 78 No.7, 79 No. 6 g), 85 and Annexes VI, VII,VIII e X, published in the Ordinary Supplement of the Italian Official Gazette No. 295 of December 24th, 1947;

9–Italian Law No. 3054 of 25 November 1952, ratifying the Legislative Decree of the Provisional Head of State No. 1430 of 28 November 1947, published in the Italian Official Gazette No. 10 of January 14th, 1953;

10–Legislative extension of the Legislative Decree of the Provisional Head of State No. 1430 of 28 November 1947 to the legal order of the Free Territory of Trieste with Official Bulletin No. 17 of June 11th, 1956 of the General Commissioner of the Italian Government for the Territory of Trieste.

11–Request of date 6.27. 2016 to the Mayor of the Municipality of Trieste to withdraw in self-protection the request of registration of ownership (texts in Italian and English).

12–Request of date 6.26.2016 to the Commissar of the Government in Regione Friuli Venezia Giulia to revoke in self-protection Commissarial Decree 19/8-5/2016 (texts in Italian and English).

13–Administering bodies and boundaries of the Free Port:

a–Decree No. 29/1955 of the General Commissioner of the Italian Government for the Territory of Trieste, regarding «Provisions concerning the Free Zones of Trieste», from Official Bulletin No. 3 of January 19th, 1955.

b–Italian Law No. 589/1967, the Autonomous body of the port of Trieste (Ente autonomo del porto di Trieste – EAPT) amended with Italian Law No. 822/1971, and published in the Italian Official Gazette No. No. 191 of July 31st, 1967;

c– Decree of the President of the Italian Republic No. 714, article 6 of 2 October 1978, Re-organization of the Autonomous body of the port of Trieste, published in the Italian Official Gazette No. 324 of November 20th, 1978, maps A, B, and C.

d–Italian Law No. 84/1994, Reorganisation of port-related regulations, published in Ordinary Supplement No. 28 of the Italian Official Gazette of February 4th, 1994, (abstract of art. 6).

14–Decree of the President of the Regional Council No. 01734/75, Public Properties – Re-establishment and/or establishment of the with card file cabinets and files, published in the Official Bulletin of Region Friuli Venezia Giulia No. 63/1975.