



1. Complaint and formal notice of default: TO THE ITALIAN GOVERNMENT (even through the *Ufficio Territoriale del Governo di Trieste* – Territorial Office of the Government in Trieste), represented by the *Presidente del Consiglio* – President of the Council of Ministers in charge, due to its special duty as the temporary civil Government of the Free Territory of Trieste, under international trusteeship mandate following from the Memorandum of Understanding of London of October 5th, 1954 in fulfillment of the Treaty of Peace of Paris of February 10th, 1947 between the Allied and Associated powers and Italy.

2. Therefore, by extension of the complaint and petition: TO THE SECURITY COUNCIL AND THE STATES MEMBERS OF THE ASSEMBLY OF THE ORGANIZATION OF UNITED NATIONS, through the Secretary-General, requesting a dedicated summoning of the Trusteeship Council.

3. Direct communication: TO THE GOVERNMENTS OF THE SIGNATORIES NATIONS OF THE TREATY OF PEACE OF PARIS of February 10th, 1947, and their successors.

4. Warning and complaint: TO THE EUROPEAN PARLIAMENT and TO THE EUROPEAN COMMISSION as Organs of Government of the European Union, through the President of the European Parliament and the High Representative of the Union for Foreign Affairs and Security Policies.

5. For primary knowledge and formal notice: TO THE LOCAL ADMINISTRATIONS of the Italian Government and of the State of Italy currently acting within the Free Territory of Trieste, even as regarding to the responsibilities concerning art. 28 of the Constitution of the Republic concerning the violation of both individual and collective rights of the citizens of the Free Territory of Trieste, as well as the causal relation mentioned in art. 40 cod. pen. it (Codice di Procedura Penale Italiano – Italian Code of Criminal Procedure), second clause, as for the alleged criminal acts:

- Ufficio Territoriale del Governo di Trieste – Territorial Office of the Government in Trieste, in person of the Prefect pro-temp;
- Commissariato del Governo nella Regione Friuli Venezia Giulia – Commissioner of Government in Region Friuli Venezia Giulia, in person of the Commissar pro-temp;
- Court of Appeal of Trieste, in person of the President pro-temp;

- General Attorney's Office of the Republic, in person of the Counselor pro-temp;
- Courthouse of Trieste, in person of the President pro temp;
- Attorney's office of the Republic at the Courthouse of Trieste, in person of the Counselor pro temp;
- Corte dei Conti – Court of Auditors, Sezione Giurisdizionale /Division of Friuli Venezia Giulia, in person of the President pro temp;
- Procura Regionale della Corte dei Conti - Regional Attorney of the Court of Auditors for Friuli Venezia Giulia, in person of the Counselor pro temp;
- Tribunale Amministrativo Regionale (TAR) – Regional Administrative Court of Friuli Venezia Giulia, in person of the President pro temp;
- Questura – Police Headquarters of Trieste, in person of the Questore - Quaestor pro-temp;
- Provincial Headquarter of the Carabinieri of Trieste, in person of the commander pro-temp;
- Comando provinciale della Guardia di Finanza – Provincial Headquarter of the Fiscal Police of Trieste, in person of the commander pro-temp;
- Military Headquarter of Trieste, in person of the commander pro-temp;
- Capitaneria di Porto – Port Authorities of Trieste, in person of the commander pro-temp;
- Autorità Portuale – Port authority of Trieste, in person of the President pro-temp;
- Banca d'Italia – Bank of Italy, regional branch of Friuli Venezia Giulia, in person of the Director pro-temp;
- ANAS (Azienda Nazionale Autonoma delle Strade – Autonomous National Agency of Streets), branch of Trieste;
- Agenzia delle Entrate – Agency of Revenue of Trieste, in person of the Director pro-temp;
- Ufficio delle Dogane – Custom Office of Trieste, in person of the Director pro-temp;

- Agenzia del Demanio – State property Office of Trieste, in person of the Director pro-temp;
- Direzione Provinciale del Lavoro – Provincial Directorate of Labour of Trieste, in person of the Director pro-temp;
- Ministero dell’Economia e delle Finanze Amministrazione autonoma dei monopoli di Stato – Ministry of Economy and Finances autonomous Administration of Monopolies of State of Trieste, in person of the Director pro-temp;
- Regione Autonoma – Autonomous Region of Friuli Venezia Giulia in person of the Presidente pro-temp;
- Provincia - Province of Trieste, in person of its President pro-temp;
- Comune – Municipality of Trieste, in person of the Major in office;
- Comune – Municipality of Muggia, in person of the Major in office;
- Comune – Municipality of San Dorligo della Valle - Dolina, in person of the Major in office;
- Comune – Municipality of Duino-Aurisina/Devin-Nabrežina, in person of the Major in office;
- Comune – Municipality of Sgonico-Zgonik, in person of the Major in office;
- Comune – Municipality of Monrupino-Repentabor, in person of the Major in office;

URGENT ACT OF COMPLAINT AND NOTICE OF DEFAULT

presented for the individual and collective legitimate interest of the citizens of the Free Territory of Trieste – Territorio Libero di Trieste – Svobodno Tržaško Ozemlje (FTT-TLT-STO), ex officio State member of the United Nations, by the association of the citizens and their supporters named “Movimento Trieste Libera” (Free Trieste Movement), concerning continuous and serious violations committed by the Italian Government infringing fundamental obligations deriving from the international trusteeship mandate assigning to it as for the temporary civil administration of the Free Territory, conferred to it with the Memorandum of Understanding of London of October 5th, 1954 in fulfillment of the Treaty of Peace of Paris of February 10th, 1947 between the Allied and Associated Powers with Italy, and currently under special, direct guarantees of the Organization of the United Nations.

Our organization, named “Movimento Trieste Libera – Gibanje Svobododni Trst – Free Trieste Movement” is formed by the citizens of the Free Territory of Trieste and it represents their legitimate interests as for both internal and international questions concerning the Free Territory of Trieste. This is why we are bringing to the attention of all the organizations addressed what follows, as a complaint and notice of default for them to fulfill all the obligation falling under their competences.

Chapter I

Institution and temporary Government of the Free Territory of Trieste

1) The Treaty of Peace of Paris of 10 February 1947, in force, between the Allied and Associated powers and Italy **has established, acknowledged and regulated the Free Territory of Trieste, as independent State, member ex officio of the Organization of the United Nations**, which is its special guarantor through its Security Council (articles: 4; 21 and Annexes VI, VII, VIII, IX and X; article 78, n. 7).

2) This instrument has put the city and Free Port of Trieste **at full, free service of the traders and industry of the International Community, with special attention for the Countries of Central Europe without a direct access to the sea, for whose it does also envisions permanent maritime registers for the registration of ships**. While the free zones of the European Community are destined to the commercial policy of the E.U., the Free Port of Trieste has been institute in order to sustain the development of global traffics. This is how the Treaty of Peace has restored the economical role and self-government rights that Trieste had exercised for centuries in union with Austria and that had been interrupted by the short annexation to the Kingdom of Italy between the World Wars.

3) Article 4 of the Treaty **fixes the frontier between Italy and the Free Territory of Trieste**, while article 78, n. 7, confirms the responsibility of Italy as for loss and damage sustained during the war by property in ceded territories, including the Free Territory of Trieste.

4) Article 21 of the Treaty rules and clearly states:

1. *«There is hereby constituted the Free Territory of Trieste [...]. The Free Territory of Trieste is recognized by the Allied and Associated Powers and Italy, which agree that its integrity and independence shall be assured by the Security Council of the United Nations.*

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.*

3. *On the termination of Italian sovereignty, the Free Territory of Trieste shall thenceforth be governed in accordance with an instrument for a provisional régime. [...] This instrument shall remain into force until such date as the Security Council shall fix for the coming into force of the Permanent Statute [...] The texts of the Permanent Statute and of the Instrument for the provisional Régime are contained in Annexes VI and VII.»*

5) Annex VI, “*Permanent Statute of the Free Territory of Trieste*”, establishes, as for the new independent State, a democratic government system grounded on popular sovereignty, which, as for its final asset, the legislative authority shall be exercised by a popular Assembly elected by the citizens of both sexes and by a Council of Government appointed by that, under the granting supervision of a Governor appointed by the Security Council of the United Nations.

6) **Annex VII, “Instrument for the provisional regime of the Free Territory of Trieste”**, envisions that «The present provisions shall apply to the administration of the Free Territory of Trieste pending the coming into force of the Permanent Statute. » which shall be realized through dedicated, temporary powers of the Governor, to be appointed “at the earliest possible moment” after the coming into force of the Treaty. And it establishes, in art. 1, that [...] “**Pending assumption of office by the Governor, the Free Territory shall continue to be administered by the Allied Military Commands within their respective zones.** ”. So, this does by all means constitute a special, international trusteeship mandate which allows, through two different phases, to constitute and govern immediately and efficiently the State, even in disregard to the coming in force of the Permanent Statute and the very appointment of the Governor.

7) **The instruments concerning the provisional regime, the Permanent Statute and the Free Port of the Free Territory of Trieste** for the creation of the new State at the coming into force of the Treaty of Peace **have been subject to the preliminary approval of the Security Council of the United Nations**, which has formally accepted the responsibilities devolving upon it under the dedicated United Nations Security Council Resolution 16 of January 10th, 1947.

8) This preliminary approval of the provisional regime does so constitute an **extension and special case as for the international Regime of trusteeship envisioned and regulated by the Charter of the United Nations**, Chapter XI, articles 73 and 74, Chapter XII, articles from 75 to 85, especially as regarding to the duties mentioned in articles 73 and 74, the objectives set with article 76, the interpretation criteria of article 80, paragraph 1, to the competence of the Assembly (art. 16) and **to the control of the Trusteeship Council established in article 7 and regulated by Chapter XIII** (currently composed by the five permanent members of the Security Council, which has suspended operations since 1994) with the functions and powers listed in article 87, especially as for the examination of petition and periodic visits to the trust territories.

9) The provisions of the Treaty of Peace, published by the Allied Military Government for Venezia Giulia on March 21st, 1947 and executed and ratified by Italy (L. 811/1947, D.L.C.P.S. 1430/1947, L. 3054/1952) have come into force with the deposit of the ratification instruments in Paris on September 15th, 1947, and, in accordance to this, it come into force on the very same day the first temporary Government of the Free Territory of Trieste, in the form of Allied Military Government, divided in two Zones.

10) The Allied Military Government did as well constitute two branches, Anglo-American (“**Allied Military Government - Free Territory of Trieste**”, AMG-FTT) as for the main “Zone A” consisting in Trieste with the Free Port and its immediate surroundings, and Yugoslav (“*Vojaška Uprava Jugoslovsanske Armije - Slobodni Teritorij Trsta*”, VUJA – STT) as for the accessory “Zone B”, consisting in a tract of the coast of Istria added in order to grant to the Free Port a direct access to international waters under the admiralty law in force at that time.

11) The present complaint does not concern the temporary civil administration of said, accessory “Zone B” (1947-1991), rather, that of the main “Zone A”, where the AMG-FTT followed the general rules of the Allied Military Government (AMG) of Occupied Territories, given in charge to the Army Zone Command and constituted by 6 to 10 special divisions and their subdivisions: *legal, financial, civilian supply (labour, agriculture, economics and supply, transportation and public utilities) public health, public safety, security, monuments, fine arts and archives, public relations and education, enemy property*. Local administrations were organized and represented in it through a Consiglio di Zona / Council of Zone, with its own president, and the city council with their mutual president of the Municipality.

12) Through this organization structure, **the AMG-FTT did immediately take care to constitute the juridical and operation structures for the State of the Free Territory of Trieste described in the Treaty of Peace, and according to the principles envisioned in the Permanent Statute**, for much necessary and suitable with the regime of temporary, military administration, such as the financial Administration (including the constitution of State Properties), the judicial Administration, the Police (*Civil Police*, with full territorial, maritime, border functions, as well as these of the Criminal Investigation Department) the status of citizenship, the symbols of the State (flag, coat of arms, insignias, frontier and border crossings, etc.). The Free Territory did have, at the same time, a seat and a flag in the Assembly of the United Nations in New York.

13) As the reasons for a direct involvement of the Armed Forces in the area would cease, being that restrictive and expensive, yet, without the possibility (due to the crossed-vetoes of the 'cold war') to activate, through the appointment of the Governor, the following phase, that of the Permanent Regime, **in 1954, the international trusteeship mandate for the temporary Government of the Free Territory of Trieste was transferred and converted by its military administrations in the civil administrations** of the Governments (not the States) respectively of Italy (Zone A) and Yugoslavia (Zone B). The mandate regards the civil administration alone because the Free Territory of Trieste shall be demilitarized and declared neutral (Treaty of Peace, Annex VI, art. 3).

14) This conversion of the temporary Government from military to civil has been expressly performed as “**practical arrangement**” meaning **without changes neither in the juridical status nor territorial status of the administered Territory**, using the instrument of agreement defined as “memorandum of understanding” and as quadrilateral convergence of will among the four Governments involved. That was communicated as such to the United Nations and they did take it into account as for the changeover of the temporary, civil administration. The instrument of the changeover did not, also, undergo the ratification of the Italian Parliament as it did not involve the sovereignty and the territory of the State of Italy (see the Constitution of the Republic of Italy, art. 80.).

15) That is still in force: the **Memorandum of Understanding of London of October 5th, 1954 among the Governments of United States, United Kingdom, Italy and Yugoslavia** with which the Government (not the State) of Italy has accepted and obtained the temporary civil administration of the main “Zone A” of the Free Territory of Trieste in a regime of international trusteeship mandate, with the related general and specific obligations, exercising uninterruptedly and efficiently this mandate from then to nowadays, without giving up on it, without either expiration nor emendation of said juridical title.

16) So, the Free Territory of Trieste results as regularly and actually constituted a a sovereign State, existing and operating since September 1947 up to now, following the coming into effect of the

Treaty of Peace and of the constitution of the full functioning of the regime of temporary Government established by that, as international trusteeship mandate, until 1954 in form of Allied Military Administration and then, since 1954 in form of temporary civil administration of the Italian Government. All opposite thesis, expressed by Italian parts, and, back then even Yugoslav parts, result as merely political statements, meaning these remain ungrounded as for their factual and legal value.

17) The administering Italian Government and the State of Italy cannot either claim the expiration of the general and specific obligations which they have assumed under international law, respectively with the Memorandum of London of 1954 and with the Treaty of Peace of 1947 in regarding of the Free Territory of Trieste, justifying themselves with a supervening impossibility of performance or with the intervention of fundamental change of circumstances not predicted by the time of the subscription (the so called, implicit *rebus sic stantibus* clause).

The legal situations which exclude the possibility to claim, as for this case, said expiration are these codified in the applicable Vienna Convention on the Law of Treaties, articles. 61, clause 2 and art. 62, clauses 1 and 2, points a) and b), since the obligations involved have established borders, and the changes of circumstances derive from unilateral violations of said obligations committed by the parties involved. Meaning these have been committed by the Italian Government and the State of Italy against the Free Territory of Trieste, whose citizens result therefore to be the damaged part, carrying individual and collegial rights to complaint, to oppose and to receive a remediation.

Chapter II

Sovereignty of the people and self-determination rights

Since the constitution of the Free Territory, in force and in execution of the Treaty of Peace, follows **the right of sovereignty belonging to its population, which is formed by the persons having right to the citizenship of the Territory** (and, as such, they are not part of the Italian people). So, all the citizens of the Free Territory Libero, both as individuals and in association, are holders of both rights and duties and the legitimate interest to claim these with conform means, in front of any institution and at time.

The rights mentioned do especially include:

a) self-determination right, which is the general and intransgressible norm of international law that, as such, produces juridical effects (rights and duties) for the whole international Community and cannot be derogated not even through international agreements.

The principle of self-determination of folks does actually grant their right to freely decide as for their political status and to freely persecute their economic, social and cultural development. Enunciated in the Declaration of Independence of the United States of America (1776) and mentioned in the Statute of the League of Nations (1919), is now an integral part of the legal principles codified by the Organization of the United Nation, bounding both for the Organization and for the Member States (the Free Territory of Trieste is a member since 1947, Italy since 1955) with a prohibition to both obstacles or restrictions.

We recommend to take note of: Charter of the United Nations (1945), Chapter I, article 1, paragraph 2; *International Covenant on Economic, Social and Cultural Rights*, as well as *International*

Covenant on Civil and Political Rights (1966) implemented by Italy with L. 881/1977; Declaration on Principles of International Law concerning Friendly Relations and Co-operation among States (1970); Organization for Security and Co-operation in Europe – Helsinki Final Act (1975).

The Countries in charge of the administration of the territories under trusteeship administration are as well explicitly bounded to promote the enforcement of the self-determination right of the folks to the people under administration, in conformity to the provisions of International instruments (Charter of the United Nations, International Covenant on Economic, Social and Cultural Rights; International Covenant on Civil and Political Rights, part I, article 3 of year 1966).

b) the annexed **right to freely manage and dispose of their own resources**, without prejudging the obligations deriving from international economic cooperation, grounded on the principle of mutual interest and of international law: by no means a folk can be deprived of their own means of subsistence (*International Covenant on Economic, Social and Cultural Rights*, as well as International Covenant on Civil and Political Rights, part I, article 2 of year 1966, implemented by Italy with Law 881/1977).

Chapter III

The succession of the Italian Government in the mandate of temporary administration

1) The transmission of the powers of temporary administration over “Zone A” of the Free Territory of Trieste under the Memorandum of London took place, **conterminously**, on November 26th, 1954 between the Allied Military Government and the Italian Government in person of General De Renzi, through a specific “Proclaim to the population of the Territory of Trieste”.

2) In the proclaim, De Renzi stated he was assuming temporary, until the coming into office of a Commissar of Government, the civil and military powers “in this Zone” **in fulfillment of art. 2 of the Memorandum of Understanding, stating that** *«the Italian Government, immediately after the cessation of the Allied Military Government, in the Territory of Trieste, is going to extend the civil administration over the Zone of the territory itself, that has been put under their responsibility under aforementioned article 2»*; confirming as well that *«laws and regulations in force in this Zone remain their efficacy»*. Please, take note that the expression “put under their responsibility”, used in consequent acts too, is that codified in the Charter of the United Nations as for trusteeships (see above, Chapter 1, point 8).

3) The Commissar of Government was appointed with DPR (Decree of the President of the Republic, Presidential Decree) of November 27th (no number.) *«in consideration of the necessity to assign to a General Commissar the administration of the Territory of Trieste that, after the cessation of the Allied Military Government, has been put under the responsibility of the Italian Government»* defining its functions as *«Commissario Generale del Governo (General Commissar of Government), under the direct authority of the President of the Council of Ministers, for the Territory of Trieste that has been put under the responsibility of the Italian Government, invested of the powers of the Government itself as for the administration of the territory, as well as of powers which had already been exercised over the aforementioned territory by the ceased Allied Military Government.»*

4) The General Commissar could only, due to this, act in name and on the account of the administering Government and only the powers of the Government and legislation provisioned by

the international trusteeship mandate, for the purposes and within the limitations that had set, **meaning, maintaining distinct and separated the jurisdiction of the Free Territory under trusteeship from that of the State of Italy.** So, the enforcement of laws and general legal principles following from Italian legislation cannot take place directly, as it happens in the territories under the sovereignty of the State of Italy, but it can only be “mediated” through specific acts of the administrating Italian Government.

5) For this reason, in his Proclaim of September 15th, 1947, the chief of the Allied Military Government of the Free Territory of Trieste confirmed that Italian laws prior to September 8th, 1943, would remain in force and these became the ground for the development of the specific legislation of the Territory under administration. And the succeeding General Commissar of the administering Italian Government had once again confirmed this specific legislation by establishing, with its own Decree n. 1 of October 29th, 1954 that *“In the Territory of Trieste put under the responsibility of the Italian Government, the laws, regulations and arrangements in force in the same Territory shall remain in force, unless these being then abrogated or emended.”*

6) Also, to solve any interpretation issue arising as for the general principles of the legal asset of the Free Territory of Trieste in regard to the coexistence of its exclusive norms with these deriving from Italian legislation, the General Commissar established with Decree n. 100 of March 5th, 1955 titled **“Principi generali del diritto vigente nel Territorio di Trieste”** (General principles as for the laws in force within the Territory of Trieste) that *«The general legal principles in force within the Territory of Trieste are these of the legal system of the State of Italy, to which the administration of the Territory has been entrusted».*

7) So, this extension (of declarative nature, yet, not prescriptive) of the general principles alone, not as for specific norms, of the Italian legal system does not affirm, rather, it excludes the superposition of that over the legal system of the Free Territory. So, as the reason of the extension as for the entrust of the administration “to the State of Italy” does only regard the functional aspects, secondarily entrusted to its structures by the Italian Government which is entitled of the primary, international mandate of administration. To which are bounded as well the organs of the State of Italy exercising of any further, secondary mandate.

8) The succession acts of the Italian Government confirms once again that this took place only under the title legally recognized as an international trusteeship mandate of temporary, civil administration, since the sovereignty of the State above the Zone had ceased when the Treaty of Peace of 1947 came into force.

Chapter IV

Intervening Territorial changes

1) As for the main “Zone A” of the Territory of Trieste, entrusted under the temporary, civil administration of the Italian Government, this legal status remained unchanged up to now, as it has never been modified by successive international instruments deputed to intervene as for the full validity and efficacy of either the provisions of the Treaty of Peace or these of the international trusteeship.

2) Yet, the legal status of the accessory “Zone B” as a part of the Free Territory of Trieste results modified in years 1991-92: a) by the dissolution of the Yugoslav Government which, as such, had been entitled of the international trusteeship mandate, which did then expire with that without becoming part of the succession to the Federal Yugoslav State, to which it did not compete b) following various expressions of the will of all the signatory States of the Treaty of Peace and all member States of the United Nations, expressed through the acknowledgment of the sovereignty of the new, independent Republics of Slovenia and Croatia within the borders which then include the now ex “Zone B”.

3) As an effect and since the date of the consequent territorial changes, the Free Territory of Trieste does now exclusively consist in the main - and now ex - “Zone A” under Italian trusteeship, which is the subject of the present complaint.

4) So, beginning with this date, any question regarding the status and the previous rights of ex “Zone B” does exclusively involve its resident or refugees and the present Republics of Slovenia and Croatia. Follows that it is not included in the subject, nor in the matter, nor in the purpose of the present complaint, presented by the citizens of the current Free Territory of Trieste against their temporary civil administrator: the Italian Government.

Chapter V

The obligations of the Italian Government under the Mandate

1) The general and specific international obligations of the Italian Government as for the exercising of temporary trusteeship as for which it succeeded to the Allied Military Government regard:

a) the full respect of international law, which means fundamental democratic rights such as the right to citizenship of the Free Territory of Trieste (art. 6, Annex VI and others, art. 15 of the Universal Declaration of Human Rights; certified by the Republic of Italy, D.Lgs. 25.9.1947 and L. 4.4.1953, n. 238), the right to popular sovereignty as well as their exercise through active and passive suffrage and other forms of democratic expression of the will of the people, including the right of self-determination;

b) the respect and fulfillment of the obligations and purposes of the trusteeship mandate, as well these were disposed with the Treaty of Peace and its specific Annexes, governing the Free Territory of Trieste in the best possible way and in conformity to all aforementioned provisions, preserving its integrity and independence (art. 21 point 1) and granting its social and economical development until the appointment of the Governor, in charge of activating the envisioned, further phase of the provisional Government;

c) the consequent – and needed to archive that – maintaining of all the functions (financial, judicial, security and police, etc.) needed for the administration of the Free Territory, separated from these of the State of Italy, just like the just like the temporary Allied Military Government did and in consideration of the fact that the State of Italy is a third country which is administered by the same Government, but with a different title; follows that wherever the trusteeship administration, takes place for reasons and purposes legit of institutions and public workers of the State of Italy, their duties must be expressly conferred, limited and adjusted and correctly bounded to the mandate and

its purpose, in fulfillment and faithful and exclusive representation of the interests of the Territory and population under administration, not of these of the State of Italy.

d) the complete and efficient enforcement of the provisions constituting the Special Statute, Annex II of the Memorandum, as for the protection smaller ethnic groups, even charging the inciting of hate against either nations or races as a crime, as well as the acknowledgment, to all the citizens of the Free Territory, of the rights and freedoms established with the Universal Declaration of Human Rights, adopted by the United Nations General Assembly on December 10th, 1948.

e) the exercising and efficiency of a temporary Government through democratic confrontations with representatives of the population of the Free Territory having the same purposes and role as these envisioned by the principles of the instruments for the provisional and permanent Government.

f) the obligation to “*maintain the Free Port at Trieste in general accordance with the provisions of Articles 1-20 of Annex VIII of the Treaty of Peace with Italy*”, since the International Commission could not be formalized yet as for the following articles, so, that should have been done organizing international meetings suitable to satisfy the same needs.

2) specific obligations as for the Free Port

The provisions of Articles 1-20 of Annex VIII of the Treaty of Peace, “*Instrument for the Free Port of Trieste*” to which the temporary civil administration of the Italian Government should adjust, as these can be applied even under this title, do in particular state:

a) that the Free Port, with its related privileges and warranties, is constituted In order to ensure that the port and transit facilities of Trieste 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 (art. 1, n1);

b) 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. With no customs duties or charges other than those levied for services rendered (art. 5, n. 1-2), including port taxes under the competence of the authorities of the Free Territory (art. 9, n.1);

c) that the activities allowed to benefit the positive conditions of the Free Port include both usual warehousing, storing, examining, sorting, packing and repacking and similar activities (art. 6) and the processing of goods or manufacturing activities (art. 7, n. 1-2);

d) that the Free Port of Trieste is constituted “*as a State corporation of the Free Territory*”, meaning as State Corporation of the Free Territory of Trieste (art. 2, n.1) and that e this organ has its own administration and account, excluding, over its area, the jurisdiction of any State (art. 3, n.2);

e) that the administration of the Free Port is carried on and exercised under its own, unbreakable, provisional constitution as for operation means, instruments and wealth, formed by the territory and installations of the free zones of the port of Trieste within the limits of the 1939 boundaries (art. 3, n. 1), and all Italian state and para-statal properties 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, within the same limits (art. 2, n. 2; cf. art. 1 Annex X – Economic and Financial provisions relating to the Free Territory of Trieste);

f) that this fundamental asset, which is so constituted by all areas and specific functional infrastructures, (soils, basins, docks, piers, storehouses, railroads, streets, etc.) as well as bounded to the exclusive uses of the Free Port in title of use under international law, which, as such, cannot be suppressed nor modified without the consent of all international subjects involved (including the Free Territory of Trieste) shall only be increased (so, nor reduced nor moved or devastated) in case of necessity and upon the judicial authority authorities of the the Free Port and of the Free Territory (art. 3, n. 4), which so are the only ones in title to decide as for the increasing of said areas;

g) that the legal representation and administration of the Free Port must be carried on by the Director of the Free Port, whom shall not be a citizen of Yugoslavia or Italy and shall be appointed by the legal authorities of the Free Territory, possibility referring to the Security Council of the United Nations. (art. 18, n. 1-2) also, the Director does personally hold all rights and duties of this role (art. 18, 19 and 20);

h) that among the rights of the Director there is the appointment of other employees of the Free Port, and that in all appointments of employees preference shall be given to citizens of the Free Territory (art. 18, n. 3);

i) that inspections by the authorities of the Free Territory shall be permitted within the Free Port to the extent necessary to enforce the customs or other regulations of the Free Territory for the prevention of smuggling (art. 8) measures for the protection of health, public services and also to ensure police and fire protection (art. 14-15);

j) that the Free Territory of Trieste and all third States (including the State of Italy) 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 (art. 16, n. 1);

k) that the Free Territory of Trieste and all third States (including the State of Italy) 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. (art. 16, n. 2). 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 (art. 17);

l) that the Free Territory of Trieste and all third States (including the State of Italy) 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. (art. 16, n. 3).

3) Specific economical and financial obligation

The financial obligations of the Government of Italy as temporary civil administrator of the Free Territory of Trieste under international trusteeship mandate keep being regulated, as it was for the previous Allied Military Government, by the general principles of international law and the ordinary principles of the correct administration and specific provisions of the Treaty of Peace collected in Annex X – Economic and financial provisions relating to the Free Territory of Trieste.

All general, financial obligations of international law are these defined in the Charter of the United Nations as for the matter of trusteeship.

The ordinary, fundamental obligations to a correct financial administration do mainly consist, other than in the premise of honesty, rigorous and efficient conduction, in the proper maintaining of the separation of the goods (wealth, State Properties), of the administrator, and of the financial accounts (administrative, fiscal and budget management) of the State under administration from these of the administering Government and third countries;

Annex X does especially and as well bound to:

a) constitute the State Properties of the Free Territory of Trieste, to which shall be transferred without payment (art. 1, as well as Annex VIII, art. 2, n. 2) all Italian State or para-state properties within either the Free Territory or the Free Port and, in particular: movable and immovable property of the Italian State, of local authorities and of public institutions and publicly owned companies and associations, as well as movable and immovable property formerly belonging to the Fascist Party or its auxiliary organizations. (art. 2).

b) to exempt the Free Territory of Trieste from the payment of the Italian public debt: “*The Free Territory shall be exempt from the payment of the Italian public debt*”. This norm, included in article 5, relates to the public debt of back then, but even its consequences – both fiscal and financial – until the present days, on the public debt of the State of Italy; whose successive taxes cannot be collected either from the Free Territory of Trieste, since that is a third Country, under international trusteeship assigned to the Government, not the State of Italy.

c) as for the constitution of the Wealth of the Free Territory of Trieste, the Italian State shall assume the obligations towards holders who continue to reside in the Free Territory, or who, being juridical persons, retain their *siège social* or principal place of business there, in so far as these obligations correspond to that portion of this debt which has been issued prior to 10 June 1940 and is attributable to public works and civil administrative services of benefit to the said Territory but not attributable directly or indirectly to military purposes (art. 5).

d) as for the decisions concerning the future status of external obligations secured by charges upon the property or revenues of the Free Territory shall be governed by further agreements between the parties concerned. (art. 6);

e) special arrangements shall be concluded between Italy and the Free Territory to govern the conditions under which the obligations of Italian public or private social insurance organizations towards the inhabitants of the Free Territory, and a proportionate part of the reserves accumulated by the said organizations, shall be transferred to similar organizations in the Free Territory. (art. 7), granting, by doing so, the continuity and maintaining of the rights gained and of the consequent payment of social insurance and other forms of assistance.

f) to regulate any controversy that might take place as for the fulfillment of economical-financial dispositions of Annex X under the conciliatory procedures of art. 83 of the Treaty of Peace, in this specific case, involving a representative of the Government of the Free Territory and another for the Italian Government, eventually assisted by third parties.

Chapter VI

Involvement of third countries

Third countries concerned as for the respect and rightful execution of the provisions of the Treaty of Peace as for the Free Territory of Trieste, and as for its correct administration both provisional and final, are the Signatory States of the Treaty which have assumed this obligation, and all Member States of the United Nations entitled of the right to a free and indiscriminate use of the International Free Port of Trieste and of all connected benefits.

Chapter VII

International obligations of Italy as a third Country

The international obligations of Italy, as a third country, towards the Free Territory of Trieste, are:

a) the generic bounds of Italian legislation to the fulfillment of Italian legislation, without distinctions among customary obligations and these following from specific agreements among States (articles 10 and 117 Cost, it.). Follows that all international law ratified through domestic laws do as well count as laws of the State which prevails over domestic law (cf. Cass. Pen. Ital. 21.3.1975), and any domestic State law in conflict with a ad international agreement that has been ratified this law results illegitimate as it is anti-constitutional (Corte Cost. Ital.,sent. 348 e 349 del 24.10.2007), and follows the illegitimacy of any consequent act.

b) the supply of water, electricity and movement across the frontiers for the Free Territory (Annex IX).

c) Italy shall continue to be responsible for loss or damage sustained during the war by property in ceded territory or in the Free Territory of Trieste belonging to United Nations nationals. (Art. 78, n. 7).

d) freedom of transit shall, as for 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 (Annex VIII, art. 16, n. 1); 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 (art. 16, n. 2. with customary international agreements freedom of postal, telegraphic, and telephonic communications between the Free Port area and any country (art. 17).

e) to take no measures regarding regulations or rates which would artificially divert traffic from the Free Port for the benefit of other seaports. (art. 16, n. 3).

f) Italy shall continue to be liable for the payment of civil or military pensions earned, as of the coming into force of the present Treaty, for service under the Italian State, municipal or other local government authorities, by persons who under the Treaty acquire the nationality of the Free Territory, including pension rights not yet matured. (Annex X, art. 8).

g) Italy shall return property unlawfully removed after 3 September 1943 from the Free Territory to Italy. (Annex X, art. 15)

h) Italy shall return to the Free Territory in the shortest possible time any ships in Italian possession which were owned on 3 September 1943 by natural persons resident in the Free Territory who acquire the nationality of the Free Territory under the present Treaty, or by Italian juridical persons

having and retaining *siège social* in the Free Territory, except any ships which have been the subject of a *bona fide* sale. (Annex X, art. 16).

i) a just and equitable allocation of rolling stock and railway equipment and of dock and harbour craft and equipment (art. 17)

j) Italy waives all claims of any description against the Allied and Associated Powers on behalf of the Italian Government or Italian nationals arising directly out of the war or out of actions taken because of the existence of a state of war (art.76, 1); to submit to the appropriate Italian authorities for review any judgment given by an Italian court between 10 June 1940 and the coming into force of the present Treaty (Annex XVII, B).

Chapter VIII

Exercise and violations of the trusteeship mandate committed by the Italian Government

1) During the exercising 1954-2013 of the international trusteeship mandate over the Free Territory of Trieste, the Italian Government (in the succession of all of its members and leaders pro-temp) has committed **continuous and increasing violations of the obligations and purposes of the mandate, both individual and collective rights off the citizens of the State under administration, in order to take that over through illegitimate and mendacious means, in favor of the bordering State of Italy.** Causing, by doing so, unfair and severe damages – moral and material – to both the population of the administered State and to the whole International Community, as it has the right to use the Free Port of Trieste.

2) **There are all the needed evidences as for all violations and damages we mentioned.** Also, even in international law the violations to the obligations under a mandate that were committed by the administrator harming the administered subjects do not cause the extinction of the violated, mandate or administration, rather, the removal of the unfaithful administrator.

3) The violations took place at different degrees, in more phases, but **through one, always identical system, meaning forcing or hiding the violations of the mandate with massive political operations made of repression of democratic dissent and massive financing, with both public and secret money, the parties, organizations, personnel propaganda or press linked to either neo-Fascism or Italian frontier nationalism,** as fanatics (belonging to both left and right wing) supporting Italian sovereignty or revanchist/*irredentisti* claiming all eastern lands that Italy had ceded with the Treaty of Peace. This is how Trieste has been manipulated and given in charge to a rotten, local political class, picked according to its nationalist militancy and then involved in the well-known corruptions of the political system of Italy.

4) The first phase of the violations took place between 1954 and 1963, and it consisted in respecting the legal aspects of the administration mandate through the acts of the General Commissar of Government, yet **as for the side of political-ideological propaganda, in consisted in the simulation of the sovereignty of the State of Italy.**

5) During this time, and for this purpose, the administering Italian Government **has slowly dismantled the installations of the Free Territory as a State** that had been create by the Allied Military Government, substituting these with the installations of the State of Italy which are not obliged to fulfill the obligations under the mandate (as for it, Italian employees are not instructed,

rather, misinformed) and in violation of the very rights to citizenship of the population. Even, it has been reconstituted – and without institution act – the Province of Trieste which had ceased with the Treaty of Peace following the end of Italian sovereignty. Also, in 1956 has been suppressed with joined Italian-Yugoslav operation the daily press which supported the independence of Trieste.

6) Also, the financial administration of the Free Territory has been illegitimately confused with that of the State of Italy, and the population and the taxation of the Free Territory have been undergoing the constantly increasing fiscal impositions of Italy, in violation of the prohibition, provisioned by the Treaty of Peace, since the Triestine population is exempt from the payment of the Italian public debt.

7) At the same time, the Register of State Properties of Italy took over, unfairly and with no right, the State Properties of the Free Territory of Trieste, and, by doing so, it subtracted to the administered population their whole State wealth, which can be currently estimated up to dozens of billions Euro.

8) A second phase of the violations has begun in 1963, when the Italian Parliament (meaning that of a third Country) with its own constitutional law has instituted Region Friuli Venezia Giulia, unfairly annexing to the Italian provinces of Gorizia, Udine and Pordenone not the Province of Trieste, which is juridically non-existent, but the single Municipalities which do, in reality, constitute Zone A of the Free Territory of Trieste. This means that, as for this part, the law is illegitimate and thus null, as it infringes both the Italian Constitution and the status the Free Territory holds under international law. Meaning the Treaty of Osimo cannot have any valid, legal effect as for the status of the Free Territory.

9) At the same time, the unconstitutional law which declared ceased the General Commissar of Government for the Territory of Trieste, has instituted the ordinary organ of the Commissar of Government in the Region which does not have the special, legislative powers of the General Commissar. So, starting with that moment, the legitimate extension of the norms from the Italian legal system to that of the Free Territory of Trieste under temporary administration has no longer taken place.

10) In 1966, the temporary administrating Italian Government has closed the shipyards of the Free Territory of Trieste to favor these of the State of Italy, heavily repressing a popular uprising, and it has begun a policy for the gradual isolation and suffocation of the Free Port and the industries of Trieste to favor the ports of the State of Italy.

11) A further phase of violations has begun in 1975, when Italy and Yugoslavia, despite their status as third parties, agreed on the bilateral Treaty of Osimo with which they did mutually recognize as a border the demarcation line between the two Zones of the Free Territory under temporary administration of the respective Governments and, following from that, they declared the efficacy of the Memorandum of London had ceased only as for mutual relations (but not under International Law).

12) This means the Treaty of Osimo could not produce legal effects neither as for the existence of the Free Territory of Trieste, nor as for the concerning provisions of the Treaty of Peace and Memorandum of London in regard to the administered population ad international guarantors.

13) Following the ratification of the Treaty, the Security Council of the United Nations did simply limit itself to agree that in 1977, under the request of the Italian and Yugoslav representative to take off its agenda the points “*appointment of a Governor for the Free Territory of Trieste*” e “*the question of the Free Territory of Trieste*”, but **it then confirmed with an official letter** of May 20th, 1983 that these can be risen once again, at any moment, by the request of a Member State of the United Nations. So, both instruments – the Treaty of Peace of 1947 and the Memorandum of 1954 – **are considered fully in force by international diplomacy** (CFC. *Treaties in Force - TIF*, annual publication of the United States Department of State USA 2012).

14) **Even, – and despite having no title to do so – the State of Italy presents itself as the interlocutor of the European Union** and other international institutions **even as for matters involving the Free Territory of Trieste** and, by doing so, it simulates its sovereignty over it on this level as well.

15) In the 1990s, the current phase of the violations of the mandate of administration began, with the administering Italian authorities emphasizing as much as possible both their simulation of sovereignty and the suffocation of the Free Port of Trieste in favor of the ports of the Italian peninsula. For this purpose, the temporary administering Italian Government did, in particular **omit to perfection the autonomy and administrative powers of the Free Port** as provisioned in the Treaty of Peace, **reducing and delayed the founding for the infrastructures, drastically cut railroad connections**; it does as well attempt to **block one of the two main parts** of the Free Port with incompatible plants (a rigassification terminal), **and to eliminate the other one** urbanizing it both illegally and in violation of the bounds related to its international destination.

16) At the same time, **the Italian Government acts in front of the European Commission in order to deviate from the Free Port of Trieste to Italian ports the European Baltic-Adriatic axis, as well as charging (February 2013) on the Free Port of Trieste higher taxes respect to these of Italian ports with the declared purpose to prevent it from being their competitor**, and in spite of the disposition which expressively forbids this form of discrimination being part of the Treaty of Peace (Annex VIII, art. 16, n. 3).

17) The legal and administrative Italian institutions in Trieste do as well refuse, adducing ungrounded arguments, to acknowledge the lack of jurisdiction of the Italian State, while **this policy consisting in severe and continuous violations of the trusteeship mandate is reducing into misery and growing desperation the Triestine population**, and it has caused its drastic decreasing from the 270.000 inhabitants of 1954 to the current 200.000.

18) The most tragical economical and humanitarian crisis faced by the Free Territory of Trieste remains that connected to **very heavy, illegal taxation imposed by the State of Italy, which are collected systematically neglecting the prohibitions of international law, resulting in the ruin of a growing number of companies, citizens and families**, and in enforces both hopeless unemployment and an enormous quantity of illegitimate foreclosures involving both goods and houses of the people which are unfairly hit.

19) The facts that have been roughly summarized here to then represent a **very severe regime of continuing, both active and neglectful, violations of international law**, of the Treaty of Peace, of the Memorandum of London, of the Charter of the United Nations and of Fundamental Human

Rights, committed by the Government in charge of the trusteeship and causing a severe damage to the Triestine administered population as well as of the commercial and maritime interest of the International Community.

20) It does as well result impossible to deal with the related economical and financial controversies through the conciliation procedures provisioned in the Treaty of Peace, Annex X, art. 19, because the Free Territory would be represented, in front of the State of Italy, by its temporary administrator, the Italian Government, in a conflict of interests which is already evident as for the whole situation constituting this matter of complaint.

Chapter IX

Requests following from the complaint

In consideration of all that has been described and reported, follow our requests, which are consequent and previous to any other defensive action, as well as being a possible subject for further documents or requirement:

A. - That the Italian Government takes care, spontaneously or under invitation of the Organization of the United Nations, and even through its local Administrations:

1) to acknowledge and rightfully exercise its international mandate of temporary civil administration over the Free Territory of Trieste, through own decrees or through decrees of expressly delegated functionaries, avoiding and remedying to any confusion between the sovereignty of the administered Free Territory and that of the Republic and State of Italy;

2) to adjust said provisions and the whole trusteeship in as for the limits and the purposes of the international mandate, as defined with the Treaty of Peace of Paris of 1947 and with the Memorandum of Understanding of London of 1954, rightfully informing their employees;

3) to appoint once again, and as for this, a General Commissar of Government in charge of the administration of the Free Territory of Trieste, as well as to temporarily entitle the Port authority of Trieste with the powers of the Director of the Free Port of Trieste described by specific provisions of the Treaty of Peace.

4) to officially recognize and respect the status of citizenship of the Free Territory of Trieste to all entitled persons, even as for the possibility of dual citizenship;

5) to take care of the voting and election of a collegial organ which would represent and democratically exercise the autonomous sovereignty of the people of the Free Territory of Trieste, even towards the temporary administering Government, in the means and according to the principles and with the powers provisioned as for this matter in the Treaty of Peace;

6) to legalize the practical functions of the staff of Italian public administration involved in the administration of the Free Territory of Trieste emitting the needed decrees of appointment under the international mandate, with the functions following from that as well as the retribution implementations corresponding to that;

7) to grant, as for working places and wherever that is possible, the precedence to the citizens and residents of the Free Territory of Trieste;

8) to separate all accounts and administrative functions, even fiscal, of the administered Free Territory from these of the Republic and State of Italy;

9) to take care, in fulfillment of the Treaty of Peace, of the needed *trascrizioni tavolari* (transcriptions of properties) in the Register of the State Properties of the Free Territory of Trieste for all public properties (terrestrial, maritime and other) belonging to the administered Territory, including these under the management of the Free Port of Trieste;

10) to immediately suspend any form of fiscal extension and collection, direct or indirect to the citizens, the enterprises and the institutions of the administered Free Territory, of the payment, in any measure and form, of Italian public debt, as that constitutes an action expressly forbidden by the Treaty of Peace Treaty of Peace;

11) to immediately null the establishing and collection of any discriminatory tax established over the Free Port of Trieste in violation of the specific forbiddings normed by the Treaty of Peace;

12) to begin, even in consideration of the aforementioned forbiddings and of any other violation – direct or collateral – of the international trusteeship, the recalculation *ab origine* of debits and credits between the administered Territory and the administering Government, as that is responsible of said violations, in complete disregard to both rights or retaliation hypothesis over third parties, and in order to prepare the needed remediation, even gradual and in form of deferred payment, to the institutions, the enterprises and the citizens of the administered Free Territory, without prescription limits;

13) to immediately regulate the position of the Free Territory of Trieste as independent city-state and port despite being under international, trusteeship mandate as regarding to the European Union and other international institutions;

14) to return the mandate of temporary civil administration to the United Nations, going through the Security Council, if realizing an absolute or partial impossible to fulfill that as for the Italian Government, or in case its fulfillment would result in a conflict of interests for the Republic or the State of Italy of which said administering Government is – at the same time – an expression.

B. - that the Organization of United Nations takes care to take note, as soon as possible, of the present complaint, and to urgently summon the Trusteeship Council to fulfill the examination of this petition, complete all needed visits and then takes all required measures as soon as possible.

C. - that the European Parliament and the European Commission take care to take note, as soon as possible, of this complaint, disposing all the investigations needed and assuming, once again, as soon as possible, the needed measures to restore legitimate bounds between the European Union and the Free Territory of Trieste, whose Government is currently represented by the Italian Government in fulfillment of an international, trusteeship mandate of temporary civil administration.

Trieste, June 18th, 2013

Roberto Giurastante

in charge of Environment and Legality

Free Trieste Movement

Since January 18th, 2014, Mr. Giurastante is the President of the Free Trieste Movement. The Secretary of the Movement, Silvia Verdoggia, signs the document: she has translated it in English.

Trieste, June 30th, 2014

Free Trieste Movement

Secretary Silvia Verdoggia