



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

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Document S/2015/809 of the United Nations Security Council reconfirms the status of the Free Territory of Trieste

The archives of documents and minutes of both the United Nations General Assembly and Security Council, starting from 1947 on, contain uncountable proofs of the legal status of the Free Territory of Trieste as a sovereign State under a provisional regime of Government, as well as references to this model for other international regimes of protection for territories and people.

Since about 20 years, these archives are available to everybody on line. Therefore, the broadcasting of old Italian thesis about the alleged lack of legal existence of the Free Territory of Trieste is unjustified, for those are made up on domestic, gross misinterpretations of the treaties and provisions of international law.

On 23 December, 2015, the United Nations Security Council has published on line the document registered under S/2015/809, with attached a complete, official historical-legal review on the international protection systems established by the League of Nations from 1920, and by the United Nations Organization since 1945.

This official document has been drafted in 2014 by the United Nations expert on initiative of Secretary-General Ban Ki-moon upon a request of international protection presented in July 2014 by Mahmoud Abbas, President of the State of Palestine, *Dawlat Filastin*, recognized by the UN General Assembly with Resolution A/RES/67/19 of 29 November 2012.

The initiative and merit of the document are therefore due to Secretary-General Ban ki-moon, who, in the transmission letter to the Security Council, underlines that his study does not propose any particular system or systems of protection for the Occupied Palestinian Territory, rather, it has the purpose of informing any future work that might take place within the United Nations on the subject of international protection.

About the contents of the document

Five categories of international protection are considered in the document: the Administration of territory by the League of Nations and the United Nation, the Localities and zones under special protection in international humanitarian law, the Safe Areas and Other cases of possible relevance.

Starting from 1920, each example of international protection - being it concluded or not - is introduced with an analytic tab divided into short chapters, in a chronological order, describing the legal bases, the structure of the system of

protection, the role of the League of Nations or of the United Nations, and the international references.

The fifth tab concerning the Administration of territories focuses on the Free Territory of Trieste, it confirms its establishment in 1947 and it considers that it exists to the present day as a sovereign State under a provisional regime of Government under direct protection of the UN Security Council, this protection extending also to the international Free Port of the Free Territory of Trieste.

The legal instruments recognized by this official document of the United Nations are in fact Security Council Resolution S/RES/16 (1947), of date 10 January 1947, the Treaty of Peace with Italy of 10 February 1947 (UNTS, Vol. 49, No. 747) and the Memorandum of Understanding of London of 5 October 1954, which established the existing temporary civil administration entrusted to the responsibility of the Government of Italy - not to the State of Italy - on behalf of the United Nations (UNTS, Vol. 235, No. 3297).

The International Provisional Representative of the Free Territory of Trieste – I.P.R. F.T.T. does therefore recommend to all bodies in charge of the Italian temporary civil administration of the present-day Free Territory of Trieste to keep into consideration this extremely recent official UN document, to prevent the continuation of misunderstandings and disputes on the matter.

About the territorial question after 1992

The purpose of the document is to define the cases of international protection systems and the consequent obligations of the United Nations. This is why it confirms the uninterrupted existence of the Free Territory of Trieste since 1947, but does not mention the recent legal facts that changed its territorial extension with the consent of the international guarantor, this being the Security Council.

In order to evaluate the question, it is necessary a premise: at the time of the establishment of the Free Territory of Trieste, its main area, consisting in the capital city, Trieste, the international Free Port, and by five smaller Municipalities nearby, was provided with an accessory coastal zone, with the purpose of extending the territorial waters of the new State to the international waters.

The provisional regime of Government is established with Annex VII of the Treaty of Peace, it does also activate (art. 2) all compatible norms of the Permanent Statute established at Annex VI, and it consists in two phases: the first one, entrusted to the Allied Anglo-American and Yugoslav Commands, which were already present in the territory, and a second one, entrusted to a Governor in charge of the activation of the whole Permanent Statute.

With the Memorandum of Understanding of London, the temporary civil administration of the main zone (also known as “Zone A”) on behalf of the Security Council, was sub-entrusted by the Governments of the United States and of the United Kingdom to the responsibility of the Government of Italy, and

the administration of the accessory zone (also known as “Zone B”) was entrusted to the responsibility of the Federal Government of Yugoslavia.

As confirmed by this UN document as well, the legal status of the Free Territory of Trieste, established with the multilateral Peace Treaty of 1947, was not changed by the international instruments adopted after the 1954 Memorandum of Understanding concerning the provisional trusteeship mandates, their international validity being confirmed also by article 7 of the abnormal Italian-Yugoslav bilateral Treaty of 10 November 1975 (UNTS 1466 No. 24848).

While the mandate of temporary civil administration entrusted to the Italian Government lasts, uninterrupted, to the present day (2016), the mandate entrusted to the Federal Yugoslav Government ceased in 1992, due to the dissolution of the S.F.R. of Yugoslavia and consequently of its Government, which had divided this administration between its Federal Republics of Slovenia and of Croatia.

At the same time, the Governments of the former Yugoslav Republics of Slovenia and of Croatia had taken care to grant the right of self-determination of the population by the mean of plebiscites on independence and sovereignty (1990; 1991), the independence of both States being recognized by all United Nations Member States and, therefore, by all Signatory States of the Treaty of Peace with Italy, including their successors.

Since those actions constituted both compliance with the right to self-determination of people and the conditions of the Vienna Convention on the Law of Treaties (article 30 No. 3) concerning only the non-applicability of that part of the Peace Treaty that included in the Free Territory the accessory zone entrusted to the administration of the Federal Yugoslav Government, the Security Council recognized this new legal situation with its resolution S/RES/753 (1992) and S/RES/754 (1992), accepting the applications of the new independent States of Slovenia and Croatia, now admitted to membership in the United Nations and, with the following Resolution S/RES/777 (1992) it declared and recognized the dissolution of the F.S.R. of Yugoslavia and, therefore, the end of its Government.

Following the aforementioned international facts and instruments, the present-day Free Territory of Trieste consists in its main zone, which includes the Capital city, the international Free Port of Trieste and the five smaller Municipalities nearby, this State has no territorial claims against the neighbouring Republics of Slovenia and of Croatia and it intends to develop with them, as well as with the bordering Republic of Italy, a climate of friendship and international cooperation.

About the usefulness of Security Council document S/2015/809

The International Provisional Representative of the Free Territory of Trieste considers that document S/2015/809 is going to be extremely useful to give a positive outcome to all legal, financial and fiscal disputes involving the provisional Italian Government, the Republic of Italy and their civil or military bodies acting in the Free Territory of Trieste.

As for this matter, the I.P.R. F.T.T. informs to have already included references to this document in the solicitations of 10 January 2016 to the current provisional Italian Government, to the Governments of the United States and of the United Kingdom as well as to the United Nations Security Council for them to take prompter action in to put a stop on the illegal attempts to eliminate the Northern Free Port of the Free Territory of Trieste, therefore preventing further disputes, which are undesirable from all parties.