

**1) To the Commissar for the completion of the *libro fondiario* (*Grundbuch*)**

at the *Ufficio Tavolare* (Land Registry office) of Trieste

and, through them, duly and fully met all the tasks for which he is competent,

**2) To the President of the Court of Trieste**

**3) To the Court of Appeal of Trieste - I Civil Section**

**4) To the Land Registry Judge in Trieste**

**5) To the Keeper of the *libro fondiario* (*Grundbuch*) in Trieste**

All of them as provisional and jurisdictional Authorities entrusted with the establishment and preservation of the *libro fondiario* (*Grundbuch*) and of the *elenco del bene pubblico* (List of Public Properties) of Trieste under the mandate and on behalf of the temporary civil administration of the Free Territory of Trieste, entrusted to the responsibility of the Italian Government in compliance with the pertinent instruments and norms of international and of Italian law, in force (*Treaty of Peace of 10 February 1947; Law No. 811 of 2 August 1947; Legislative Decree of the Provisional Head of State No. 1430 of 28 November 1947; Law No. 3054 of 25 November 1952; Constitution of the Republic of Italy, articles 10, sub-paragraph 1 and 117, sub-paragraph 1; Memorandum of Understanding of London of 5 October 1954 regarding the Free Territory of Trieste; Decree of the President of the Republic of 27 October 1954; Constitutional Law No. 1/1963, articles 2, sub-paragraph 1 and No. 4, sub-paragraph 1 and point 3) and No. 70, Royal Decree No. 499 of date 28 March 1929; Decree of the President of the Regional Council of Friuli Venezia Giulia No. 01735 of 21 July 1975; Regional Law of Friuli Venezia Giulia No. 15/2010):*

**Urgent request to complete the Land Registry (*Grundbuch*)**

(*Regional Law of Friuli Venezia Giulia No. 15/2010*) by registration and inclusion in the *libro fondiario* (*Grundbuch*) the ownership *ex lege* and the consequent restrictions of public properties included in the Northern Free Port or “old” port, of Trieste, upon verification and eventual specification or correction of the current registration of the ownership of the properties in the appropriate tabs of the *Elenco del Bene Pubblico* (List of Public Properties) (*DPGR FVG 21 July 1975, n. 01734*);

**and contextual opposition and warning**

against accepting, from now on, any past, present or future request, to complete the Land Registry and attribute the ownership of the above mentioned or other public properties, or to change their registration in the List of Public Properties or to transfer their ownership without an appropriate title, as well as to trade them, in elusion or violation of the ownership titles and restrictions established *ex lege* under the Treaty of Peace of Paris of 10.II.1947 (article 21, Annex VIII, article 2, Annex X, article 1) as ratified and implemented with laws, in force, of

the Republic of Italy (*Law No. 811 of 2 August 1947; Legislative Decree of the Provisional Head of State No. 1430 of 28 November 1947; Law No. 3054 of 25 November 1952*) under Constitutional obligation to comply with international obligations (*Constitution of the Republic of Italy, articles 10, sub-paragraph 1 and 117, sub-paragraph 1*).

**Main ownership titles and law in force:** *Treaty of Peace between the Allied and Associated Powers and Italy, signed at Paris on 10 February 1947; Law No. 811 of 2 August 1947; Legislative Decree of the Provisional Head of State No. 1430 of 28 November 1947; Law No. 3054 of 25 November 1952; Constitution of the Republic of Italy, articles 10, sub-paragraph 1 and 117, sub-paragraph 1; Decree of the President of the Republic of 27 October 1954; pertinent Decrees of the General Commissar of the Government for the Territory of Trieste and of the General Commissar of Government in Region Friuli Venezia Giulia; Legge Tavolare (Grundbuch); Constitutional Law No. 1/1963, articles 2, sub-paragraph 1 and No. 4, sub-paragraph 1 and point 3, Article 70; Regional Law of Friuli Venezia Giulia No. 15/2010; Decree of the President of the Regional Council of Friuli Venezia Giulia No. 01735 of 21 July 1975;*

## PETITIONERS

Jointly and individually, as bearers of legitimate interest - even as co-owners of the public goods for citizenship share - to promote and archive the requested actions by virtue of the titles activated:

**1. Roberto Giurastante**, born in Trieste on 3.24.1965, citizen *de iure* and *ope legis* of the Free Territory of Trieste (Territoire Libre de Trieste, Свободная Территория Триест, Territorio Libero di Trieste), as well as equipped of accessory Italian citizenship, acting as himself and as legal representative of the non-profit political organization “Movimento Trieste Libera”, established to represent the legitimate interests of the Free Territory of Trieste and of its sovereign population, and delegated to act in realisation of this purpose with more than 20,000 signatures of the citizens, 15,000 of which have already been lodged before the United Nations, who as petitioner in both roles, states his address for service related to his request in Trieste, piazza della Borsa 7, at the Movimento Trieste Libera – Free Trieste Movement;

**2. Paolo (G.) Parovel**, born in Trieste on 6.19.1944, citizen *de iure* and *ope legis* of the Free Territory of Trieste (Territoire Libre de Trieste, Свободная Территория Триест, Territorio Libero di Trieste), as well as equipped of accessory Italian citizenship, Foreign Affairs Commissioner of the Free Trieste Movement, who as petitioner, states his address for service related to his request in Trieste, piazza della Borsa 7, at the Movimento Trieste Libera – Free Trieste Movement;

Thus underlining that the request is legitimised by the interest, right and civic duty to obtain the completing of the Land Registry in order to protect the law from violations that is proper of the Land Registry Law in force in Trieste, with the registration of particular public properties in the goods within the *pubbliche tavole* (public tables) in fulfilment of the applicable legal titles established under international and Italian laws, which establish their ownership, restrictions and titles whose registration and inscription *ope legis* remains a duty *ex officio* of public administrators and is applicable but whoever has interest in it.

## PREMISE, NEW FACTS AND DOCUMENTS

On dates 22 April 2015 and 11 August 2015, the present petitioners presented to this Commissar request with the same object, registered under No. 3/COMP/15 and No. 7/COMP/15.

The questions were presented to protect the legal ownership and destination of use of a large, State-owned port area bounded to the use of international Free Port, which is notoriously and proven to be threatened by consociations of public and private subjects who are maliciously attempting to violate these by actions and mean denounced as criminal offences to the competent judicial and investigative authorities.

For this purpose of defence of public interests, the underwritten requested to complete the Land Registry Book by inscribing the immovable properties identified and the registration *ope legis* of their ownership and destination of use as established by virtue of the specific provisions of the Treaty of Peace with Italy of 10 February 1947, in force, and of the Italian laws, in force, for its ratification and full execution, without reserves, of the same Treaty (Law No. 811 of 2 August 1947; Legislative Decree of the Provisional Head of State No. 1430 of 28 November 1947; Law No. 3054 of 25 November 1952).

The title activated this way has the status of an imperative requirement of the law, whose enforcement - upon request of *ex officio* - is an international obligation that in the Italian legal system prevails on national and regional law (articles 10, sub-paragraph 1 and 17, sub-paragraph 1 of the Constitution of the Republic of Italy);

**The obligation to comply with the norms of the Treaty of Peace with Italy does therefore does not depend from the jurisdiction exercised by the Authorities entitled to enforce those, which means, in this case, that it independent from their belief to be exercising either the temporary civil administrative jurisdiction of the Free Territory of Trieste, or that of the Republic of Italy.**

As for this matter, it is therefore irrelevant, prior to being factually false, the previous objection of the Court of Appeal of Trieste according to which, addressing Italian authorities to request compliance with the provisions of the Treaty of Peace relating to the Free Territory of Trieste and to its international Free Port would invalidate the request

Also, in case of uncertainties as for the current legal status of the Free Territory of Trieste, that shall be ultimately confirmed by the very recent UN Security Council document S/2015/809, annexed sub 9 (see. page 1 and Section V).

As for another objection of the Court of Appeal, according to which, in this specific case, the previous two documents requesting the registration of public property cannot be registered in the *Grundbuch* because they are unrelated to authorisation or concession acts (in accordance with article 5 of Regional Law No. 15 of 2012) this is completely and *ipso facto* overcome by the specific decree under Protocol No. 19/8/5/2016 (annexed sub 10) with which he Commissar of the Government in Region Friuli Venezia Giulia, exercising the normative powers of temporary civil administration of the Free Territory of Trieste, assigned to it ex

article 70 of Italian Constitutional Law No. 1/1963, considered to declare the «transfer of the international legal regime of the Free Zone of the Old Port of Trieste to other zones» for those properties to be assigned to the City of Trieste, removed from State Property and sold, in compliance with an ambiguous and improper law of the Republic of Italy (Law 190/2014, article 1, paragraphs 618, 618 and 620), which, on the other side, by doing so, recognises to the Commissar of the Government the exclusive use of those normative powers deriving from a source that is not the Italian legal system.

This decree does therefore constitute an evidence a contrariis of the necessity to register correctly the public properties for which such registration is requested with the present document, since in case this registration is not performed, this would give raise to the execution of this decree, leading to the complete and illegal violation of the title of ownership and of the status of restrictions which are established by precedent and prevailing legislation.

**For instance, it is an elementary legal evidence that a restriction established under international law with a multilateral Treaty which does all include rights of all other States (such as the regime of international free port) cannot be amended with a normative decree issued by the Commissar of a provisional Government who is actually in charge of implementing it, nor it can be amended by a national legislator of a State that must respect it under Constitutional constrain. The originally nullity and voidness of the first case would also give raise to unconstitutionality in the second.**

**Both impossibilities would also involve the Court of Appeal, under both jurisdictional roles, in case it is requested to endorse the enforcement of such a Commissarial Decree.**

Also, since the specific norms of the Treaty of Peace are imperative legal provisions and prevail on both jurisdictional profiles that we just considered, their execution upon request or *ex officio* would be mandatory self, as it prevails on the inferior requisite of the subsistence of the authorisation or concession acts envisioned at article 5 of Regional Law No. 15 of 2012 as others of the same law, and Property Law in general.

It is also clear that only after the execution, on request or ex officio of the registration in the Land Registry Book and of the mandatory recording of this previous and prevailing title whoever has interest in arguing its decadence to acquire without committing fraud, therefore in good faith, for all legal purposes (article 1479 of the Italian Civil Code), ownership over these properties can legitimately lodge a request to register successive titles of ownership considered valid or sufficient for the purpose.

**This does not only also apply to acts of the Land Registry Office, but also to the acts of the Cadastre and of any other public act**, of any public body and of all kinds, which involves ownership of the destination of use of public goods that were transferred and established with this previous and prevailing title of international and Italian law.

We do also underline, for all purposes of liability, for all respects, and reserving to provide more details when needed, that to this day the competence of Region Friuli Venezia Giulia, of the Court of Appeal of Trieste and of the Land Registry Judge of Trieste on the matter do nor directly derive from the jurisdiction of the State of Italy, but from normative acts of the provisional, administrative over the present-day Free Territory of Trieste, exercised since

1954 with the specific decrees of the General Commissar of the Italian Government for the Territory of di Trieste, whose powers were mostly transferred in 1963 to the Commissar of the Government in Region Friuli Venezia Giulia, and partially to the Region itself and to a Prefect; all of them continue exercising said powers to this day.

For the purpose of the present act, we do also underline that the expressions “present-day Free Territory of Trieste”, *Territorio Libero di Trieste*, Free Territory of Trieste, do refer and mean the current extension, which consists in the Municipalities of former "Zone A", since in 1992 its sovereignty over former “Zone B” ceased with the realisation of the conditions established under article 30, point 3 of the Vienna Convention on the Law of Treaties, with the international recognition of the new independent Republics of Slovenia and Croatia.

For all those reasons, Din the light of the new facts, the undersigned petitioners formulate:

**1) the present new request to complete the Land Registry Book (Regional Law of Friuli Venezia Giulia No. 15/2010) by inscribing the properties listed and registration of the ownership and restrictions established under the recalled provisions of the Treaty of Peace of Paris of 10 February 1947, in force, and of the Italian laws of ratification and full implementation, without reserves, of the same Treaty, upon verification and, if needed, specification or correction of the registration of the ownership of the properties in the appropriate tabs of the list of public properties (Decree of the President of the Regional Council of Friuli Venezia Giulia No. 01735 of 21 July 1975);**

**2) contextual, preliminary opposition and warning against fulfilling any request, whoever presents it, to complete the Land Registry Book and register the above mentioned or other public properties eluding or violating the ownership titles and restrictions established *ex lege* by the Treaty of Peace of Paris of 10.II.1947 (articles 21, Annex VIII article 2, Annex X article 1) as ratified in full and executed without reserves with laws in legal force of the Republic of Italy (Law No. 811 of 2 August 1947; Legislative Decree of the Provisional Head of State No. 1430 of 28 November 1947; Law No. 3054 of 25 November 1952); under constitutional constrain to fulfil international obligations (Constitution of the Republic of Italy, article 10, sub-paragraph 1 and article 117, sub-paragraph 1);**

**3) specification that the above mentioned warning at 2) does also constitute a title and a request of the undersigned persons to be correctly and promptly informed of the presentation, existence and status of such, eventual procedure brought forward by third parties in relation to the same properties;**

**4) contextual, full reserve of separate appeal and possible actions for the compensation of damages caused by the negative outcome of this request, following verification of the acts, especially in regard to the compliance with the obligations established under articles 27 and 28 of Regional Law No. 15/2010 and of the requested special publicity of the procedure in respect to the international bodies and States holding rights, *ex lege*, over the public properties subject to the present request;**

**5) contextual, full reserve of any other action of defence and reparation of damages**, in any form and in every Court, even international, to defend the rights activated with the precedent and with the present request.

## LAW

### **A. titles of ownership *ex lege* and of legitimate interest accordingly to which this request is presented.**

Are integral titles for the registration of this request as well as titles of the legitimate interest of the petitioners to request and obtain it:

1) the Treaty of Peace between the Allied and Associated Powers and Italy, in force, signed in Paris on February 10, 1947, which has come into force with the deposit of the instruments of ratification by the Union of Soviet Socialist Republics, the United Kingdom of Great Britain and Northern Ireland, the United States of America and France (Article 90) as well as Yugoslavia, India, Canada and Italy, on 15 September, 1947, ratified and enforced by Italy with: Law No. 811 of 2 August, 1947, authorising the Government of the Republic of Italy to ratify the Treaty (*in Official Gazette No. 200 of 2 September, 1947*); Legislative Decree of the Temporary Head of State No. 1430 of 28 November, 1947, full implementation of the Treaty (*ordinary supplement to Official Gazette No. 295 of 24 December 1947*); Law No. 3054 of 25 November, ratifying Legislative Decree No. 1430 of 28 November, 1947 (*in Official Gazette No. 10 of 14 November, 1953*), registered at the United Nations by the Union of Soviet Socialist Republics and by France on 15 March, 1950 (*United Nations Treaty Series, Volume 49 – 1950, N° 747, Treaty of Peace with Italy, signed at Paris, on 10 February, 1947*).

Underlining that this request recalls the pertinent provisions of the Treaty of Peace, which is a multilateral normative Treaty, in force (see also: *US Department of State, Treaties in Force, 2013*), as written, published and registered at the United Nations, in its French, English and Russian version, authentic, and in Italian as a non-authentic text, yet, officialised by the Republic of Italy with Legislative Decree of the Temporary Head of State No. 1430/1947, ratified with Law No. 3054/1952.

Precising that this subject is also regulated by the principles of customary international law, codified, in particular, by two multilateral normative treaties: the *Charter of the United Nations* of June 26th, 1945, which binds all the the Member States, undersigned by Italy on February 22nd, 1956 and ratified with Law No. 848/1957, and the *Vienna Convention on the Law of Treaties* adopted on May 22nd, 1969, ratified and implemented by Italy with Law No. 112/1974 and in force since January 27th; the same principles were also confirmed with the Final Act of 1975, which concluded the Conference on Security and Co-operation in Europe.

2) **in particular, the following Articles and Annexes of the multilateral Treaty of Peace itself, in force, concerning the establishment, the legal order and the rights of the Free Territory of Trieste** (Territoire Libre de Trieste, Свободная Территория Триест, Territorio Libero di Trieste) as well as the duties and rights of the other States towards it:

- Articles No. 4, 21, 22, 48 point 5, 78 point 7, 79 point 6 g), 85;

- Annexes No. I-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.

**3) in particular, the following provisions of the same multilateral Treaty of Peace, in force, and of its Annexes concerning the real properties, as well as the related prohibitions and restrictions on use as well as of the rights *in rem* of the Free Territory and of other States, of which we request the registration:**

**a) Article 21, point 1, of the multilateral Treaty, in force,** which rules the establishment, at the coming into force of the same Treaty, of the Free Territory of Trieste (Territoire Libre de Trieste, Свободная Территория Триест, Territorio Libero di Trieste) as a sovereign State provided with its own territory, population, legal system and government, recognises by the Signatory States and by the United Nations and under the direct protection of the Security Council, which accepted this responsibility with Resolution S/RES/16 of January 10th, 1947.

**b) Article 21, point 2, of the multilateral Treaty, in force,** which rules the contextual termination without conditions of Italian sovereignty over the area of the Free Territory of Trieste since the coming into force of the Treaty;

**c) of Article 1 of Annex X of the multilateral Treaty in force,** which rules and, at the coming into force of the Treaty of Peace, has the effect of ceding *ex lege*, tho immediately transfer to the Free Territory of, without payment, all Italian State and para-statal, movable and immovable property (specifying the nature of the organizations of origin) within the Free Territory, therefore, since that moment, these are excluded *ex lege* from the Public/State property of the Republic of Italy and its organs, becoming eligible *ex officio* to constitute the Public/State property of the Free Territory of Trieste which, as such, is a common property of its sovereign population - the community of its citizens *de iure*.

**d) Article 90 of the multilateral Treaty, in force,** establishing the conditions and time of it's coming into force;

**e) Article 34 of Annex VI and the whole Annex VIII of the multilateral Treaty, in force,** which establish the creation and international regime of the Free Port (Port Franc, СВОБОДНЫЙ Порт, Porto Franco) of Trieste;

**f) Article 85 of the multilateral Treaty, in force,** which, among the miscellaneous economic provisions of the Treaty does clearly include the provisions of Annexes M VIII and X ruling that, likewise to these of the other Annexes, these are to be considered integral part of the Treaty and therefore have the same value and effect;

**g) Article 2, point 1 of Annex VIII of the multilateral Treaty, in force,** which rules the creation of the Free Port of Trieste as a State Corporation of the Free Territory of Trieste, with having all the attributes of a legal person;

**h) Article 3, point 1 of Annex VIII** of the multilateral Treaty, in force, which regulates the definition of the area of the permanent Free Zones of the international Free Port of Trieste within the limits of the Free Zones of the Port of Trieste in existence in 1939, therefore, binding the areas to this exclusive use;

**i) Article 3, point 4 of Annex VIII** of the multilateral Treaty, in force, which allows to eventually increase the Free Port outside its permanent Free Zones mentioned in Article 3, point 1, but does not allow to eliminate or substitute these, confirming once again the permanent nature of the restriction on use of these areas to the exclusive use as international Free Port established and regulated under Annex VIII itself;

**j) Article 2, point 2 of Annex VIII of the multilateral Treaty, in force**, which establishes to transfer *ex lege*, without payment, to the international Free Port of the Free Territory of Trieste all Italian state and para-statal property transferred to the Free Territory of Trieste under Article 1 of Annex X which is within the boundaries of its permanent Free Zones (Article 3, point 1), to form the original, permanent and essential resource of the Free Port itself, as a State Corporation of the Free Territory of Trieste (Article 2, point 1);

**k) Articles 1, 3 points 2 and 3, 5 points 1 and 2, 6, 7 points 1 and 2, 10, 12, 22 and 24 of Annex VIII** of the multilateral Treaty in force, which establish the destinations, restrictions on use as well as of the rights in rem of third parties, to bind and to the benefit of all the permanent and additional areas of the international Free Port of Trieste, in particular:

- the exclusive destination of the immovable properties as customary Free Port destined to be used “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”, with the international regime governed by the provisions of Annex VIII itself, which clearly includes the activities of warehousing, storing, examining, sorting, packing and repacking and similar activities, as well as the procession of goods and authorises manufacturing activities (taking into account that “Yugoslavia” now refers to its Successor States);

- the rights of the merchant vessels and goods of all Countries of the world, therefore extended to all the enterprises which carry on their maritime traffic, trade, transformation - processing - and industrial activities of the 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 without the levy on such goods customs duties or charges other than those levied for services rendered.

- the prohibitions to establish special zones in the Free Port under the exclusive jurisdiction of any State, as well as the prohibition to discriminate on the nationality of the vessels, the ownership of the goods or on any other grounds when it comes to determinate and receive the pertinent rights and fixing and levying harbour dues and other charges in the Free Port;

- the right of Italy and of Yugoslavia to request and obtain, if allowed, the exclusive use of berthing spaces within certain parts of the area of the Free Port. (taking note that here the name “Yugoslavia” refers to its Successor States);

- the right of the citizens of any State who are engaged in any legitimate pursuit in the Free Port to access it without unduly impediments;

- the right of the International Commission in charge of the administration of the Free Port referred to in Articles 21, 22 and 23 of Annex VIII, consisting in the representatives of the following States: the 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, to have its seat and offices in the Free Port and exempt from local jurisdiction (taking note that the names "Union of Soviet Socialist Republics", "People's Federal Republic of Yugoslavia", "Czechoslovakia," now refer to their successor States);

- the obligation to subject to the procedures of resolution envisioned in Article 24 of the same annex any dispute relating to the interpretation or execution of the provisions of Annex VIII of the Treaty of Peace concerning the regime and consistency of the international Free Port of Trieste and its areas.

**l) Articles 1, 3, 6, 7, 8, 9, 11, 13, 14, 18, 19, 20, 21, 22, 23,** which establish the exclusive powers of administration of the international Free Port of Trieste and, with it, of immovable properties, assigned to the Director of the Free Port referred to Article 18, as part of the provisions of the State legal order and of the executive and jurisdictional bodies of the Free Territory of Trieste and with the power to control the management of the Free Port which are assigned to the International Commission referred to Article 21;

**m) Articles 21 and 90 of the multilateral Treaty, in force, and Annexes VI and VII,** which establish the Free Territory of Trieste, a parliamentary democracy provided with its own legal order, territory, sovereign population consisting in the people entitled *ope legis* to its citizenship, and of the current provisional regime of Government as preparatory administration for the permanent regime;

**n) Article 2 of Annex VII of the multilateral Treaty, in force,** which establishes as main direct beneficiary of the temporary administration of the Free Territory of Trieste its sovereign population consisting in the people entitled *ope legis* to its citizenship, who therefore are directly entitled of the legitimate interest to the enforcement of all the provisions of the Treaty of Peace concerning - directly or indirectly - their rights and their moral and material wellbeing, including the direct and indirect rights of work and free enterprise through the regime and areas of the international Free Port;

**o) Article 2, sub-paragraph 3, of Annex VII,** which establishes the obligation, for the Authority in charge of the provisional government of the Free Territory of Trieste, to enforce also in the Provisional Regime all applicable provisions of the Permanent Statute referred to in Annex VI, therefore, establishing the consequent right and legitimate interest of the citizens, States and enterprises to their enforcement.

**B. Obligation to attribute *ope legis* the status of State Property of the Free Territory of Trieste to all movable and immovable public properties that were transferred to it since 15 September 1947 under the multilateral Treaty of Peace in force (Article 1 of Annex X).**

All public State and para-statal immovable properties referred to at Article 1 of Annex X of the Treaty of Peace with Italy signed in Paris on 10 February, 1947, which has come into force on 15 September, 1947, being or not registered on the *Libro Fondiario* (Land Registry) and/or are recorded as a property of the State or other subjects governed by Public Law referred to in the norm (local authorities and of public institutions and publicly owned companies and associations), are *ipso facto* to be considered transferred, *ope legis*, since that moment, as well as the movable properties of the same subjects, to the exclusive property of the Free Territory of Trieste (Territoire Libre de Trieste, Свободная Территория Триест, Territorio Libero di Trieste) constituting, *ex lege* its State/demaniaal property.

That for this reason, since 15 September, 1947, all cadastral registration and registrations of property rights or any other related right related to the above mentioned immovable properties which were previously or successively concluded in the name of the “State Property” and/or of the “State Demaniaal Property”, or in the name of the other public subjects referred to at Article 1 of Annex X of the multilateral Treaty of Peace in force, must obligatorily be intended *ope legis* no longer as the State/demaniaal property of the Republic of Italy (whose titles of sovereignty and ownership have ceased on that date, respectively, under Article 21, point 2 and of Article 1 of Annex X of the same Treaty) nor of said authorities, but to the State/demaniaal property of the newly established owner *ex lege*, which is the Free Territory of Trieste (Territoire Libre de Trieste, Свободная Территория Триест, Territorio Libero di Trieste).

Since this is a transfer of ownership *ope legis*, under the multilateral normative Treaty, in force, which is a Constitutional, binding and superordinate part of the Italian legal system, it has effect on the ownership and availability of the movable and immovable properties referred to at Article 1 of Annex X of the Treaty *ipso facto* and *ex tunc*, even regardless to the actual, careful and rightful full registration of the ownership or the open explanation of the implicit fact that since 15 September, 1947, the term “State” within the Free Territory of Trieste is exclusively used and cannot but refer to the Free Territory of Trieste as exclusive holder of the sovereignty.

As for this matter, it is of use mentioning, among the registrations of public properties in the Land Registry of Trieste, in the name of public administrations which, after 15.9.1947 were transferred under the Treaty of Peace to the *Demanio dello Stato del Territorio Libero di Trieste* (State Property of the Free Territory of Trieste), the registration, in force, of the property classified as cat. 304, now p.c.n. 915/3 in PT 751 of the *c.c. di Cologna* (census district of Cologna), to the “*Demanio dello Stato – Sovraintendenza dell’Amministrazione delle Poste e Telecomunicazioni – Territorio Libero di Trieste*” - “*Demaniaal Property - Superintendency of the Post and Telecommunications - Free Territory of Trieste*”, registered in 1950, erroneously modified in 1994 assigning it to the “*Ente Poste Italiane, con sede in Roma*” and restored, in 1995, to its original form by the *Giudice tavolare* (Land Registry Judge) upon notice of the *Conservatore del Libro Fondiario* (Registrar of the Land Registry). A copy of the registration, as it appears on the ledger, **is annexed sub 5** to provide an example.

### **C. Obligation to register and titles of jurisdiction of the Land Registry Judge in Trieste.**

The present request regards ownership rights established *ex lege* on the immovable properties listed at the end of this document of which, therefore, in Trieste must undergo the registration in the Land Registry, *ex officio* and upon request, this does also apply to all other immovable goods belonging to the categories listed at point C, under the fundamental principles of the Land Registry Law (principle of consensus; principle of speciality; principle of application; principle of registration; principle of legality; principle of the publicity).

The obligation is also independent from the verification of the title of jurisdiction exercised by the Italian Land Registry Judge currently in charge of Land Registry proceedings, which means whether he believes - rightfully or falsely - to exercise the jurisdiction of the Free Territory of Trieste or that of the Republic of Italy.

The performances required to enforce the provisions of the Treaty of Peace with Italy, signed in Paris on 10 February 1947 are equally binding and have legal efficacy under both legal systems.

The Memorandum of Understanding signed in London on 5 October 1954 as an additional executive instrument of the Treaty of Peace has entrusted the temporary civil administration of the Free Territory of Trieste, including the international Free Port, to the responsibility of the Italian Government (not to the Republic of Italy) and, by accepting the duties of this mandate, the Italian Government has taken on itself and in the name of the bodies it has delegated for the purpose, became responsible for that to the delegating authority, the Security Council of the United Nations, to the administered Free Territory of Trieste, to its sovereign population and to all third parties governed by private, public or international law.

On the other side, the Republic of Italy has recognized the Free Territory of Trieste, assuming all the consequent obligations under international and domestic law towards it, its citizens *de iure* and all third parties governed by private, public or international law, under the laws, in force, which with it ratified and fully enforced the Treaty of Peace: Law No. 811 of 2 August, 1947, authorising the Government of the Republic of Italy to ratify the Treaty (*in Official Gazette No. 200 of 2 September, 1947*); Legislative Decree of the Temporary Head of State No. 1430 of 28 November, 1947, full implementation of the Treaty (*ordinary supplement to Official Gazette No. 295 of 24 December 1947*); Law No. 3054 of 25 November, ratifying Legislative Decree No. 1430 of 28 November, 1947 (*in Official Gazette No. 10 of 14 November, 1953*).

Also, those international obligations did become binding and prevail on the domestic legislation of Italy under Article 10, sub-paragraph 1 and then also Article 117, sub-paragraph 1 of the Constitution of the Republic of Italy.

The obligation to register the title as well as the consequent restrictions and rights *in rem* leading to the present request do therefore regardless to preliminary or successive verifications of the title of jurisdiction of the Italian Land Registry Judge serving in Trieste, since the purposes of the rightful implementation of this request does not envision that they do - or think to - exercise, in carrying out their duty and in completing the precise, requested act, the jurisdiction of the Italian Government under the mandate of special trusteeship (temporary civil administration) entrusted to its responsibility under the Memorandum of Understanding

of London of 1954 on behalf of the Security Council of the United Nations, or the jurisdiction of the Republic of Italy.

**The full enforcement of the Treaty of Peace, even when it comes to the Land Registry Law, is actually a duty of both the Italian Government as provisional Government (temporary civil administrator) of the Free Territory of Trieste and its organs, and of the Republic of Italy and its organs, under its binding Constitutional laws, in force.**

This obligation itself does also make evident the anti-constitutionality, for breach of article 10, sub-paragraph 1 and article 117, sub-paragraph 1 of the Constitution of the Republic of Italy, which therefore we are now contest for all legal intents and purposes, respect to conflicting articles 618, 619 and 620 of article 1 of Constitutional Law 190/2014, which were surreptitiously obtained and advocated by the supporters of the breach of the previous and prevailing norms of the Treaty of Peace and of the Italian legal system concerning the public properties of which we are requesting the registration of the titles of ownership and legal restrictions in force.

Therefore, any and water exception of the title of exercise of the State jurisdiction within the Free Territory of Trieste cannot affect the right of the petitioners, or any other subject, to request and obtain this registration, nor the duty of the Land Registry Judge to fulfil it, but only possible, successive and consequent legal facts once the registration in the Land Registry is complete.

Also, due to this, the petitioners state underline neither this request nor the eventual payment of levies, taxes, rights or other charges to the Republic of Italy or its organs, requested rightly or wrongly, in regard to the procedures resulting from it would not represent a recognition of the sovereignty of the Republic of Italy over neither the Free Territory of Trieste nor over the International Free Port of Trieste.

**D. Impossibility to bring forward or receive oppositions of the Italian State and its bodies and statal or para-statal bodies, or even third parties.**

The transfer, since 15 September 1947 of the ownership *ex tunc* to the Free Territory of Trieste of all Italian movable and immovable, State and para-statal properties takes place under a multilateral international Treaty, in force, ratified and enforced by the Republic of Italy, which is bounded to observe it through all of its bodies and its own Constitution (Articles 10, sub-paragraph 1 and 117, sub-paragraph 1), and cannot oppose an equal, actual title to that.

Therefore, eventual oppositions raised by either the Republic of Italy or its organs and State or para-statal organization to the acts recognizing the transfer of these properties to the ownership of the Free Territory of Trieste - as is this registration - would be improbable, inadmissible and null as if would violate both the legal order of the Free Territory of Trieste and of the Republic of Italy.

Also, since the properties on which is pending this request of registration are State properties of the Free Territory of Trieste assigned to its International Free Port, they cannot be acquired by third parties with *usucaption* either, nor they can be expropriated, and the rights of

ownership and consequent restrictions established on them *ope legis* are not subject to prescription or to expire.

This is why, for the purposes of the procedure to complete the *Grundbuch* with the public properties described in this request, the following subjects have no title to oppose: the Land Registry Office of the Republic of Italy, Regional, Provincial or City Administrations, as well as the Commissar for the liquidation of civic usages, nor any other of the signatories of the “Minute” with map previously annexed sub 7, 8 and 9; the same allies to the Italian Government entrusted with temporary civil administration and to the Commissar of the Government it has delegated to exercise those powers in compliance - therefore not in breach of - the norms of the Treaty of Peace of 1947 and of the Memorandum of Understanding of London of 1954.

#### **E. Objective and well-known condition of *periculum in mora*.**

The tangible objects asked to be registered have a clear and very relevant function and value for both local and international economy and they are in a condition such that any further delay of the - to this moment omitted - registration *ex officio* of their legal property would be itself a serious, objective and well-known danger (*periculum in mora*) as these could be misused and damaged by public or private entities that have no title of ownership.

**This condition is now ultimately proven by a new document produced and analysed in the premise and annexed sub 9.**

The undersigned petitioners do therefore confirm to be bearers of legitimate and relevant interests to bring forward the present request and to obtain its full and prompt reception.

### **REQUEST**

The undersigned do therefore request that, in execution of the legal obligations of the Treaty of Peace between the Allied and Associated Powers and Italy, signed at Paris on 10 February 1947, in force, listed above and concerning the Free Territory of Trieste (Territoire Libre de Trieste, Свободная Территория Триест, Territorio Libero di Trieste) and the international Free Port of Trieste (Port Franc, Свободный Порт, Porto Franco) as ratified and executed by the Republic of Italy and constituting imperative legal measures, with Constitutional prevalence on national and regional Italian laws, taking into account articles 70 and 4, point 5 as well as the Land Registry Law (*Legge Tavolare*) and articles No. 1 and 5 of Regional Law of Friuli Venezia Giulia No. 15/2010,

to start and complete

upon verification and eventual specification or correction of the current registration of the ownership of the properties in the appropriate tabs of the *Elenco del Bene Pubblico* (List of Public Properties) (*DPGR FVG 21 luglio 1975, n. 01734*) the procedure to complete the Land Registry Book (*Libro Fondiario*) under Regional Law No. 15/2010 to inscribe in public boards the following immovable properties included within the boundaries of the Northern Free Port, namely said the Old Free Zone (*Punto Franco Vecchio*) of Trieste, and bounded to

this use under a constrain established under the Treaty, as previously identified with the documents previously lodged with requests No. 3/COMP/15 and No. 7/COMP/15:

**1) in the *comune censuario* - census district of Trieste:**

abstract of map TRIESTE/A - Foglio 10, c.c. di Trieste:

p.p. c.c. n.n. 1/10, 1/6, 683, 685, 686, 679, 680, 681, 682; (lad lot No.)

abstract of map TRIESTE/A – Foglio 6, c.c. di Trieste:

p.p. c.c. n.n. 478, 477, 476, 475, 473, 472, 471, 470, 469, 468, 467, 466, 461/1, 461/2, 460, 462, 465, 464, 684, 262, 263, 474, 714/3, 715/1, 1703/1, 1703/4, 1703/6, 1703/7, 1704, 242/11, 242/5, 242/8, 242/9, 1/5, 1/9;

abstract of map TRIESTE/A – Foglio 3, c.c. di Trieste:

p.p. c.c. n.n. 242/1, 242/2, 242/3, 242/6, 242/7, 243, 1/1, 1/17, 1/16, 463, 257, 256, 1/4, 1/8, 254, 253, 252, 251, 8538/1, 8538/2, 8538/3, 8538/4, 8538/5, 230, 231, 232, 233, 234, 235, 237, 250, 249, 241, 238, 239, 3, 4, 5, 1/14, 1/15, 1/13, 1/12, 2/7, 2/8, 2/9, 2/10, 2/11, 2/12, 2/6, 2/4, 2/3, 2/2, 1/11, 1/7, 240;

**2) in the *comune censuario* - census district of Grotta:**

abstract of map TRIESTE/I – Foglio 8, c.c. di Grotta

p.p. c.c. n.n. 1379/5, 1398/1, 1398/3, 1398/4, 1398/5, 1398/6, 1398/7, 1398/8, 1398/9, 1398/10, 1398/11, 1398/12, 1398/13, 1398/2, 1399, 1400, 1401, 1379/7, 1402, 1403, 1404, 1405, 1385, 1386, 1387, 1388, 1389, 1390, 1393, 1392, 1394, 1395, 1396, 1383/2, 1383/3, 1383/1, 1382, 1379/2, 1379/6, 1379/10, 1379/9, 1379/3, 1379/11, 1380, 1379/1;

**3) in the *comune censuario* - census district of Barcola:**

abstract of map Trieste/C – Foglio 12, c.c. di Barcola

p. c. n. 122;

All with the registration of the right of ownership of the

*“Demanio dello Stato del Territorio Libero di Trieste – Porto Franco internazionale di Trieste”*

“State Property of the Free Territory of Trieste – international Free Port of Trieste”

in force and in execution of articles 21 points 1 and 2 of the Treaty of Peace of Paris of 10 February 1947, of articles 1 and 2 of Annex X, of article 34 of Annex VI and of articles 2, points 1 and 3 as well as 3 point 1 of Annex VI of the same treaty.

and with the inscription, consisting in the registration, attributing to each of the properties requested to be inscribed on public tables, of the following rights, legal acts and facts, by virtue of the legal titles activated:

1. the exclusive and full, permanent destination of the area and of the buildings to the uses, prohibitions, administrative restrictions, obligations and rights *in rem* of third parties that are established under Annex VIII – Instrument for the Free Port of Trieste of the Treaty of Peace of Paris between the Allied and Associated Powers and Italy, signed at Paris on 10 February 1947, in particular:

**a)** under articles 1, 5, 6 and 7 of Annex VIII, the exclusive destination of the immovable properties as customary Free Port destined to be used “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”, with the international regime governed by the provisions of Annex VIII itself, which clearly includes the activities of warehousing, storing, examining, sorting, packing and repacking and similar activities, as well as the procession of goods and authorizes manufacturing activities (taking into account that “Yugoslavia” now refers to its Successor States);

**b)** under articles 5 and 10 of Annex VIII, the right of **b)** under articles 5 and 10 of Annex VIII, the right of the rights of merchant vessels and goods of all Countries of the world, therefore extended to all the enterprises which carry on their maritime traffic, trade, transformation - processing - and industrial activities of the 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 without the levy on such goods customs duties or charges other than those levied for services rendered.

**c)** under articles 3 point 2 and 5 point 2 of Annex VIII, the prohibitions to establish special zones in the Free Port under the exclusive jurisdiction of any State, as well as the prohibition to discriminate on the nationality of the vessels, the ownership of the goods or on any other grounds when it comes to determinate and receive the pertinent rights and fixing and levying harbour dues and other charges in the Free Port;

**d)** under article 3 points 3 and 2 of Annex VIII, the right of Italy and of Yugoslavia to request and obtain, if allowed, the exclusive use of berthing spaces within certain parts of the area of the Free Port (taking note that here the name “Yugoslavia” refers to its Successor States);

**e)** under article 11, point 2 of Annex VIII, the right of the citizens of any State who are engaged in any legitimate pursuit in the Free Port to access it without unduly impediments;

**f)** under article 18 of Annex VIII, the exclusive powers of administration of the international Free Port of Trieste and, with it, of immovable properties, assigned to the Director of the Free Port referred to Article 18, as part of the provisions of the State legal order and of the executive and jurisdictional bodies of the Free Territory of Trieste and with the power to control the management of the Free Port which are assigned to the International Commission referred to Articles 21, 22 and 23 of Annex VIII, consisting in the representatives of the following States: the 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, to have its seat and offices in the Free Port and exempt from local jurisdiction (taking note that the names “Union of Soviet Socialist Republics”, “People's Federal Republic of Yugoslavia”, “Czechoslovakia,” now refer to their successor States);

g) under article 22 of Annex VIII, the right of the International Commission in charge of the administration of the Free Port referred to in Articles 21, 22 and 23 of Annex VIII, consisting in the representatives of the following States: the 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, to have its seat and offices in the Free Port and exempt from local jurisdiction (taking note that the names “Union of Soviet Socialist Republics”, “People's Federal Republic of Yugoslavia”, “Czechoslovakia,” now refer to their successor States);

h) under article 24 of Annex VIII the obligation to subject to the procedures of resolution envisioned in Article 24 of the same annex any dispute relating to the interpretation or execution of the provisions of Annex VIII of the Treaty of Peace concerning the regime and consistency of the international Free Port of Trieste and its areas.

### **SPECIAL PUBLICITY OF THE PROCEDURE**

**In respect of the international bodies and of the States holding, *ex lege* rights over the public properties subject to this request.**

The unusual nature of the present request to complete the Land Registry Book requires taking into account the problem of publicity in respect to the States holding rights on the properties subject to the request, which cannot be considered informed of it by the mere publication on the *Bollettino Ufficiale della Regione* (Official Bulletin of the Region).

The Treaty of Peace, Annex VIII assigns, for this purpose, the rights of use of the immovable properties for port activities of an international Free Port to all States, special rights to Yugoslavia (successor States) and Italy, as well as rights to control its management and to reside (registration) to the Member States of the International Commission (and their successors) in persona of their representatives.

Additionally, among the subjects involved there is the United Nations Security Council and international guarantor, by law, of the Free Territory of Trieste (article 21, point 1 of the Treaty of Peace, UNSC Resolution No. 16/1947).

**Therefore, the applicants request that the Commissar for the completion of the Land Registry Book informs those subjects, by the means that he considers most suitable, as long as those means are proved effective and efficient, and by the following means and addresses:**

a) **the Security Council of the United Nations** represented by its President *pro tempore*, at its office building in 405 East 42nd Street on the South, New York NY 10017, USA, as direct

international guarantor of the Free Territory of Trieste (UNSC Resolution No. 16/1947; Treaty of Peace with Italy of 10 February 1947, Article 21, point 1).

b) **the General Assembly of the United Nations** represented by its President *pro tempore*, at its office building in First Avenue at 46th Street, New York NY 10017, USA, to inform, through it, all the Member States, about their role as they hold the rights *in rem* to be registered on the properties that are requested to be registered, precisely, the right of these States and their enterprises to use on equal terms of the areas of the Free Port for their vessels, goods and all the activities relating to trading, manufacturing - processing of goods - and industrial activities in a regime of fiscal exemption therein permitted;

c) **the General Assembly of the United Nations** represented by its president *pro tempore* at its international head office in First Avenue at 46th Street, New York 10017, USA, to inform, through it, to all Member States, for they bear rights on the properties to be registered, precisely, of the equal rights of all States and their enterprises to use without discriminations the areas of the international Free Port of Trieste for their ships, their goods and for all activities of trade, manufacturing - processing of goods - with the tax exemption permitted in these areas.

d) **the Governments** of the Countries holding the right to be *ex officio* members of the International Commission in charge of supervising the management of the international Free Port of Trieste, and to have their seats and offices in the Free Port exempt from local jurisdiction, to be informed at their representation offices in Italy:

- United States of America, Embassy, 00187 Rome, Via Vittorio Veneto 119/a;
- United Kingdom of Great Britain and Northern Ireland, Embassy, 00187 Rome, Via XX Settembre 80/a;
- France, Embassy, 00186, Rome, piazza Farnese 67;
- Switzerland, Embassy, 00197 Rome, Via Barnaba Oriani 61;
- Austria, Embassy, 00198 Rome, Via g. Pergolesi 3;
- Hungary, Embassy, 00161 Rome, Via dei Villini 12/16;
- Poland, Embassy, 00197 Rome, via P. Paolo Rubens 20
- Lithuania, Embassy, 00198 Rome, Viale di Villa Grazioli 9;
- Latvia, Embassy, 00198 Romae, via G. B. Martini 13;
- Estonia, Embassy, 00198 Rome, viale Liegi 28, int. 5;
- Czech Republic, (as Successor State of Czechoslovakia), Embassy, 00192 Rome. Via dei Gracchi 322;
- Republic of Slovakia, (as Successor State of Czechoslovakia), Embassy, 00135 Rome. Via dei Colli della Farnesina 144;
- Russia (as Successor State of the USSR), Embassy, 00185 Rome, via Gaeta 5;
- Belarus, (as Successor State of the USSR), Embassy, 00141 Rome, via delle Alpi Apuane 16;
- Ukraine, (as Successor State of the USSR), Embassy, 00198 Rome, via Guido d'Arezzo 9;
- Kazakhstan, (as Successor State of the USSR), Embassy, 00189 Rome, via Cassia 471;
- Slovenia (as Successor State of Yugoslavia), Embassy, 00197 Rome. Via Leonardo Pisano 10;
- Croatia (as Successor State of Yugoslavia) Embassy, 00191 Rome. via L. Bodio 74/76;

- Bosnia–Herzegovina (as Successor State of Yugoslavia), Embassy, 00195 Rome. Piazzale Clodio 12/III;
- Serbia (as Successor State of Yugoslavia), Embassy, 00197 Rome, via dei Monti Parioli 20;
- Montenegro (as Successor State of Yugoslavia), Embassy, 00197 Rome. via A. Gramsci 9;
- FYROM (as Successor State of Yugoslavia), Embassy, 00198 Rome, viale Bruxelles 73-75;
- Italia, *Presidenza del Consiglio dei Ministri*, 00187 Rome, Palazzo Chigi - piazza Colonna 370;

3) to the competent and responsible offices.

## DOCUMENTS

**A) Documents previously lodged:** for the purposes of the present request, we recall in full the document previously lodged, annexed to previous requests No. 3/COMP/15 and No. 7/COMP/15 precisely:

1. The legal titles activated:

a) United Nations Treaty Series, Volume 49 – 1950, N° 747, Treaty of Peace with Italy, signed at Paris, on 10 February, 1947, and abstract from Volume 50 – Maps: C. - Yugoslav-Italian frontier; D. - Frontiers of the Free Territory of Trieste;

b) Laws and communication of ratification and execution of the Republic of Italy, published on the Italian Official Gazette: Law No. 811 of August 3rd, 1947 - Official Gazette No. 200 of 2.9.1947; Note of the Minister of Foreign Affairs in Official Gazette No. 231 of 3.10.1947; DLCPS No. 1430 of 28 November 1947, Ordinary Supplement of Official Gazette No. 295 of 24.12.1947; Law No. 3054 of 25 November 1952, Official Gazette No. 10 of 14.1.1953;

2. UN Security Council – Resolution No. 16/1947;

3. Map of the Free Zones in 1930;

4. Sample of a registration in the Land Registry under the name of “Demanio del Territorio Libero di Trieste” - “State Property of the Free Territory of Trieste”, renewed since 1995 and in force;

5. Abstract of cadastral maps referring to the above listed properties that we request to be registered:

- in the census district of Trieste, TRIESTE/A - Foglio 10; TRIESTE/A - Foglio 6; TRIESTE/A - Foglio 3;
- in the census district of Greta, TRIESTE/I - Foglio 8;
- in the census district of Barcola TRIESTE/C - Foglio 12.

6. Decision V.G. No. 67/2015 of 19 June 2015 of the Court of Appeal of Trieste and the consequent decree of the Land Registry Judge of 1 July 2015, as notified to the petitioners on 30 July 2015.

7. "*Verbale di individuazione della nuova dividende demaniale*" (Minute of the identification of the new state-owned share) dated 9.VII.2015

8. Map attached to the above mentioned "Minute of the identification of the new state-owned share" dated 9.VII.2015

**B) New documents:** with the present question are lodged the new documents recalled and analysed in the premise, precisely:

9. United Nations Security Council document S/2015/809;

10. Decree of the Commissar of the Government in Region Friuli Venezia Giulia, Protocol No. 19/8-5/2016 of date 26 January 2016.

**C) Further documents:** the petitioners reserve to produce further pertinent documents requested by the Commissar or that they consider suitable for the purpose.

Trieste, 11 March 2015.

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The petitioners:

Roberto Giurastante

Paolo G. Parovel