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Italy suspends unilaterally the **SOVEREIGNTY OF THE ORGANIZATION OF THE UNITED NATIONS** in the territory of the **Free Port of Trieste**

After the interview with the Italian Foreign Minister Frattini (for comments on it see article “NO SE POL” at <http://www.triestfreeport.org/wp-content/uploads/2010/09/UK-NO-SE-POL-14.05.11-Frattini-il-PV-xe-Italia.pdf>) it appears that the Italian authorities are persisting in NOT understanding that in the Free Port of Trieste (FPT) the Italian law DOES NOT apply. This is quite worrying because the International Commission for the FPT offers assistance to anyone willing to find a legally valid, disciplined solution, but it must also be listened to.

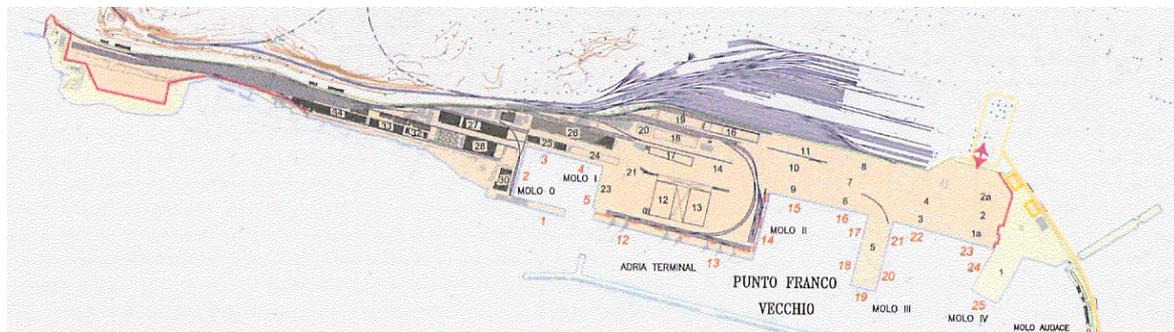
Below some comments on the article published by “Il Piccolo” on 25 June.

Note: The comments are made by the President of the International Committee for the FPT and are highlighted in blue

Source: <http://ilpiccolo.gelocal.it/cronaca/2011/06/25/news/biennale-diffusa-sospeso-il-punto-franco-1.700845>



The fence which delimited the borderline between the Free Port and Free Territory of Trieste, currently under provisionally administration of Italy.



Punto Franco Vecchio, the Free Zone where the Italian authorities suspended the existing international law contained in Annex VIII (Instrument for the Free Port) of the

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Treaty of Peace with Italy.



The **ILLEGAL** opening of the territorial border fence between the Free Port and the Free Territory of Trieste, permitted by:



Government Commissioner
Alessandro Giacchetti



President of the Port of Trieste
Marina Monassi



Mayor of Trieste
Roberto Cosolini

For the **LANDLORD**



Marco De Eccher

Comitato Porto Libero di Trieste

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25 June 2011

Art exhibition “Biennale diffusa”: Free Zone suspended

The Free Zone in the Porto Vecchio (Old Port) has been suspended to allow the art exhibition “Biennale diffusa” to take place. **The Commissioner of the Government Alessandro Giacchetti signed the act to that effect.**

Note: The so called “Free Zone in the Porto Vecchio” belongs to the territory of the Free Port of Trieste, in which the provisions of Annex VIII, that is the “Instrument for the FPT” (http://www.triestfreeport.org/?page_id=45), to the Peace Treaty with Italy (http://www.triestfreeport.org/?page_id=568) apply, which was signed and ratified by the UN and Italy in 1947, because Italy had lost the war.

The Porto Vecchio of Trieste is an extraterritorial (international) territory and therefore also a duty-free area in which ONLY the provisions of Annex VIII apply. In article 5 of the Memorandum of Understanding signed in London on 5 October 1954 by the ambassadors of Italy, Yugoslavia, the United Kingdom of Great Britain and Northern Ireland, and the United States of America, Italy pledges itself as follows: “5. *The Italian Government undertakes to maintain the Free Port at Trieste in general accordance with the provisions of Articles 1-20 of Annex VIII of the Italian Peace Treaty*”.

The provisions of said article are contained also in the LAW on the Italian Ports (No. 84/1994), in art. 6(12), which states that: “*The current regulations on the free zones within the area of the Free Port of Trieste remain unaffected. The Ministry of Transport and Navigation, upon hearing the Port Authority of Trieste, will issue a decree to define the administrative organization for the management of the said free zones*”. This means that LAW No. 84/94 applies to all Italian ports except for the free zones, i.e. the Free Port, where the provisions of Annex VIII and (only for Italy) articles 1 to 20 apply. For all other countries, including the Free Territory, all 26 articles apply.

Thus, **the second sentence of the Italian law No. 84/94 is overruled by its first sentence**, since **neither the “Ministry of Transport and Navigation” nor the “Port Authority of Trieste” are entitled to adopt laws or define the “administrative organization for the management of said free zones”**, quite the contrary: they have to manage the Free Port according to the “Instrument for the Free Port”, that is Annex VIII to the Peace Treaty with Italy. Since the **1954 Memorandum of Understanding was signed because of the Cold War**, since **it’s commonly accepted that the Cold War ended after the fall of the Berlin Wall in 1989**, and therefore the **provisional Italian administration of the FPT and also of the FTT has no longer reason to exist**, the “act” to suspend the current provisions, that is **Annex VIII, is illicit and implies de facto the appropriation of an international territory.**

After these explanations, let’s see what the article of “Il Piccolo” is about.

The Free Port in the Porto Vecchio has been suspended in order to allow the art exhibition “Biennale diffusa” to take place. Commissioner of the Government Alessandro Giacchetti has signed the act to that purpose, which is valid only during the period of the exhibition, that is from 3 July (opening of the “Sgarbi’s style” exhibition at 6 p.m.) to 27 November.

This was discussed yesterday, too, during a site inspection at the Magazzino 26 (Warehouse 26) by the Commissioner of the Government, Mayor Roberto Cosolini, President of the Trieste Province Maria Teresa Bassa Poropat and City Councillor for Public Works Elena Marchigiani. **Landlords were Marco De Eccher, representing the concessionary Portocittà, Piero Colavitti and architects Rossella Gerbini and Barbara Fornasir.**

Note: It’s worth noting the names of the politicians and officials of the provisional Italian administration of Trieste, who have not been elected by the Free Territory citizens of Trieste.

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Then the articles goes on saying “*Landlords were Marco De Eccher, representing the concessionary Portocittà, Piero Colavitti and architects Rossella Gerbini and Barbara Fornasir*”. Who are these persons and why are they called “*Landlords*”, when everybody knows that the FPT is a territory under the sovereignty of the UN? Who has given the concession to the firm called *Portocittà*? Under normal circumstances the Tribunal of Trieste would have launched an enquiry into this illicit fact, since it must know that those private citizens cannot be defined as “*Landlords*” of the territory of the Free Port of Trieste, because the latter has to be managed according to the first 20 articles of Annex VIII to the 1947 Peace Treaty with Italy, as provided for by the 1954 Memorandum of Understanding. But it appears that this Italian institution doesn’t know the provisions governing the FPT.

Particularly appreciated were the site and the charming atmosphere of the premises, where the mounting of the exhibition began some days ago. Around 100 pictures of regional artists and around 50 pictures of artists from the Central-European Initiative area will be displayed there. Many technical aspects were dealt with during the visit. In particular, Bassa Poropat declared her willingness to evaluate, together with the Amt, the possibility of using electric means of transport as shuttles between the town centre and the Warehouse 26. The organizers have envisaged also the possibility of hiring bikes: the distance between the gate behind the Sala Tripovich and the Warehouse is a mere 1,5 km. On the Viale Miramare there will be a vehicle entrance (currently under construction) for the visitors arriving from outside the city, while the parking area behind the Warehouse 26 is 1 km away from that entrance. This parking site is being realized right now, too.

The containers which were unloaded in the area the day before yesterday will serve as a frame for the exhibition, as well as for the “ex port” area: the visitors will be allowed to enter and move freely within that area, but not in all other parts of the great ex port area.

Note: They write: “*The containers... will serve as a frame, as well as for the “ex port” area*”. The fact that the FPT a port is that must be “*available for use on equal terms by all international trade and by Yugoslavia, Italy and the States of Central Europe, in such a manner as is customary in other free ports of the world*” is provided for by article 1 of the Instrument for the FPT; therefore “*the containers*” were placed there so that a part of the port cannot be available for “*all international trade*”, which is of course forbidden.

What is unclear is why Italy, in the person of the Government Commissioner Alessandro Giacchetti responsible for the administration Zone A of the FTT, has taken possession (with the approval of the politicians belonging to the provisional Italian administration of the FTT) of a part of the international territory – a decision that corresponds to a declaration of war against the entire world – with the poor excuse that some private person, holding an illicit concession, wants to exhibit some art objects?

It must be said that the Instrument for the FPT (Annex VIII) doesn’t contain any article forbidding either art exhibitions or access to the international territory.

Below some comments on the breached articles of the current regulations for the FPT, to realize how many damages the ill-management by the provisional Italian administration of the FPT has caused and is still causing.

ANNEX VIII, INSTRUMENT FOR THE FREE PORT OF TRIESTE

“Article 1

1. 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

(a) There shall be a customs free port in the Free Territory of Trieste within the limits provided

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for by or established in accordance with Article 3 of the present Instrument.

(b) Goods passing through the Free Port of Trieste shall enjoy freedom of transit as stipulated in Article 16 of the present Instrument.

2. The international regime of the Free Port shall be governed by the provisions of the present Instrument.

Note: The Italian act of suspension of the Instrument for the FPT hampers the access “..on equal terms by all international trade..” and paragraph 2 makes clear that the port must be “..governed by the provisions of the present Instrument”.

Article 2

1. The Free Port shall be established and administered as a State corporation of the Free Territory, having all the attributes of a juridical person and functioning in accordance with the provisions of this Instrument.

2. All Italian state and para-statal property 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, to the Free Port.

Note: The Italian act of suspension of the Instrument for the FPT violates the concept of territorial sovereignty of the FPT since it has “all the attributes of a juridical person” and must function “in accordance with the provisions of this Instrument”. Furthermore, Italy take possession back of the “Italian state and para-state property” which had been passed to the FTT, which in turn had passed them to the FPT, so this is a serious violation of the Peace Treaty with Italy, ratified by Italy on 15 September 1947.

Article 3

1. The area of the Free Port shall include the territory and installations of the free zones of the port of Trieste within the limits of the 1939 boundaries.

2. The establishment of special zones in the Free Port under the exclusive jurisdiction of any State is incompatible with the status of the Free Territory and of the Free Port.

3. In order, however, to meet the special needs of Yugoslav and Italian shipping in the Adriatic, the **Director of the Free Port, on the request of the Yugoslav or Italian Government and with the concurring advice of the International Commission provided for in Article 21** below, may reserve to merchant vessels flying the flags of either of these two States the exclusive use of berthing spaces within certain parts of the area of the Free Port.

Etc.

Note: The Italian act of suspension of the Instrument for the FPT is de facto an appropriation of the international territory by Italy, since it practically confiscates the port boundaries as they were in 1939 and establishes an area under Italian jurisdiction within the statutory boundaries of the FPT. Furthermore, the Italian government should have asked the “Director of the Free Port..... with the concurring advice of the International Commission provided for in Article 21”.

Article 5

1. 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.

Etc.

Note: The Italian act of suspension of the Instrument for the FPT limits the access to “Merchant vessels and goods of all countries..”.





Article 6

Warehousing, storing, examining, sorting, packing and repacking and similar activities which have customarily been carried on in the free zones of the port of Trieste shall be permitted in the Free Port under the general regulations established by the Director of the Free Port.

Note: The Italian act of suspension of the Instrument for the FPT **prevents** the “*warehousing, storing, examining, sorting, packing and repacking and similar activities*” that could **provide jobs for thousands of residents in the FTT**, only to allow the display of some pictures and sculptures.

Article 7

*1. The Director of the Free Port may also permit the processing of goods in the Free Port.
2. Manufacturing activities in the Free Port shall be permitted to those enterprises which existed in the free zones of the port of Trieste before the coming into force of the present Instrument. Upon the proposal of the Director of the Free Port, the Council of Government may permit the establishment of new manufacturing enterprises within the limits of the Free Port.
Etc.*

Note: The Italian act of suspension of the Instrument of the FPT prevents “*the processing of goods*” and “*manufacturing activities*” **which could employ thousands of citizens living in the FTT.**

Article 11

The passage of all persons into and out of the Free Port area shall be subject to such regulations as the authorities of the Free Territory shall establish. These regulations, however, shall be established in such a manner as not unduly to impede the passage into and out of the Free Port of nationals of any State who are engaged in any legitimate pursuit in the Free Port area.

Note: The Italian act of suspension of the Instrument for the FPT violates this article because the persons visiting an art exhibition are not “*engaged in any legitimate pursuit in the Free Port area*”. However, it would be enough that visitors get a temporary pass at the entrance to the FPT that allows to see the art exhibition for 1 day.

Article 16

*1. Freedom of transit shall, in accordance with customary international agreements, be assured by the Free Territory and the States 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.
2. The Free Territory and the States assuming the obligations of the present Instrument 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.
3. The States assuming the obligations of the present Instrument 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.*





Note: The Italian act of suspension of the Instrument for the FPT violates this article entirely.

Article 18

1. *The administration of the Free Port shall be carried on by the Director of the Free Port who will represent it as a juridical person. The Council of Government shall submit to the Governor a list of qualified candidates for the post of Director of the Free Port. The Governor shall appoint the Director from among the candidates presented to him after consultation with the Council of Government. In case of disagreement the matter shall be referred to the Security Council. The Governor may also dismiss the Director upon the of the International Commission or the Council of Government.*
2. *The Director shall not be a citizen of Yugoslavia or Italy.*
3. *All other employees of the Free Port will be appointed by the Director. In all appointments of employees preference shall be given to citizens of the Free Territory.*

Note: The Italian act of suspension of the Instrument for the FPT violates par. 1 since it takes the place of the competences of the “*Director of the Free Port who will represent it as a juridical person*”. The concession granted by the Director of the FPT to the building firm Rizzani, Maltauro de Eccher, i.e. the firm Portocittà, is null and void because the Director was not appointed by the Governor of the FTT and also because the Director CANNOT be an Italian citizen, as provided for in par. 2.

The Italian act of suspension of the Instrument for the FPT and the concession granted by the Director – who is an Italian citizen, thus illegal – violate par. 3 because “*all other employees of the Free Port will be appointed by the Director. In all appointments of employees preference shall be given to citizens of the Free Territory*”; thus this is an evident discrimination against the Free Territory citizens.

Article 19

Subject to the provisions of the present Instrument, the Director of the Free Port shall take all reasonable and necessary measures for the administration, operation, maintenance and development of the Free Port as an efficient port adequate for the prompt handling of all the traffic of that port. In particular, the Director shall be responsible for the execution of all kinds of port works in the Free Port, shall direct the operation of port installations and other port equipment, shall establish, in accordance with legislation of the Free Territory, conditions of labour in the Free Port, and shall also supervise the execution in the Free Port of orders and regulations of the authorities of the Free Territory in respect to navigation.

Note: The Italian act of suspension of the Instrument for the FPT and the concession granted by the Director with Italian citizenship, that is illegal, violate Article 19 because the Director must take “*all reasonable and necessary measures for the administration, operation, maintenance and development of the Free Port*” and doesn’t promote art exhibitions which have little in common with an “*efficient port adequate for the prompt handling of all the traffic of that port*”.

Article 20

1. *The Director of the Free Port shall issue such rules and bye-laws as he considers necessary in the exercise of his functions as prescribed in the preceding Article.*
2. *The autonomous budget of the Free Port will be prepared by the Director, and will be approved and applied in accordance with legislation to be established by the popular Assembly of the Free Territory.*
3. *The Director of the Free Port shall submit an annual report on the operations of the Free Port to the Governor and the Council of Government of the Free Territory. A copy of the report shall be transmitted to the International Commission.*

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Note: The Italian act of suspension of the Instrument for the FPT and the concession granted by the Director with Italian citizenship, that is illegal, violate clearly 10 of the 20 articles which Italy has committed itself to apply, in the London MoU of 1954.

Article 21

1. *There shall be established an International Commission of the Free Port, hereinafter called "the International Commission", consisting of one representative from the Free Territory and from each of the following States: 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, provided that such State has assumed the obligations of the present Instrument.*

2. **The representative of the Free Territory shall be the permanent Chairman of the International Commission. In the event of a tie in voting, the vote cast by the Chairman shall be decisive.**

Note: The Italian interim administration for the FPT has been advised, before the signing of the suspension, that now there exist a permanent presidency of the International Commission.

Article 22

The International Commission shall have its seat in the Free Port. Its offices and activities shall be exempt from local jurisdiction. The members and officials of the International Commission shall enjoy in the Free Territory such privileges and immunities as are necessary for the independent exercise of their functions. The International Commission shall decide upon its own secretariat, procedure and budget. The common expenses of the International Commission shall be shared by member States in an equitable manner as agreed by them through the International Commission.

Note: The Italian interim administration for the FPT has been advised, before the signing of the suspension, that the "*International Commission shall have its seat in the Free Port*".

Article 23

The International Commission shall have the right to investigate and consider all matters relating to the operation, use, and administration of the Free Port or to the technical aspects of transit between the Free Port and the States which it serves, including unification of handling procedures. The International Commission shall act either on its own initiative or when such matters have been brought to its attention by any State or by the Free Territory or by the Director of the Free Port. The International Commission shall communicate its views or recommendations on such matters to the State or States concerned, or to the Free Territory, or to the Director of the Free Port. Such recommendations shall be considered and the necessary measures shall be taken. Should the Free Territory or the State or States concerned deem, however, that such measures would be inconsistent with the provisions of the present Instrument, the matter may at the request of the Free Territory or any interested State be dealt with as provided in Article 24 below.

Note: The Italian interim administration for the FPT has been advised, before the signing of the suspension, that the "*..International Commission shall act either on its own initiative.. and ..shall communicate its views or recommendations on such matters to the State or States concerned..*"."





CONCLUSIONS

**In 1954 the Security Forces under the control of the UN SECURITY COUNCIL
SUSPENDED the protection of the Free Territory and Free Port of Trieste
And
in 2011 the ITALIAN Security Forces SUSPENDED the international sovereignty in the
territory of the ORGANIZATION OF THE UNITED NATIONS.**

Both SUSPENSIONS were ILLECIT AND MUST BE TERMINATED because the Free Territory including the Free Port of Trieste is a strategic sea port city with the purpose of guaranteeing the availability of the transit ways of Trieste to all international trade as well as to Slovenia and Croatia (former Yugoslavia), Italy and the States of Central Europe on equal terms,
as provided for by Article 1 of the Instrument for the Administration of the Free Port of Trieste.

The President of the FPT Committee
The President of the International Commission for the Free Port of Trieste

Marcus Donato

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