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(It's not possible)

First Italy abandons the most important international port in the Mediterranean 57 years long, then it takes possession of this property belonging to the international community to further private speculative ends.

Note: The comments are made by the President of the International Commission for the Free Port of Trieste and are highlighted in blue



Frattini

Berlusconi



UN Security Council



The Free Port of Trieste in 2011, the only extraterritorial (international) territory with own legislation existing in the world

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From the interview with the Italian Minister of Foreign Affairs made by the journalist Gabriella Ziani, appeared on "Il Piccolo" the most important daily paper of Trieste, 14 May 2011

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Italian Minister of Foreign Affairs, Frattini: «The Free Port can be moved without need of treaties»

by Gabriella Ziani

Minister Frattini: «To use the areas in the Porto Vecchio the will of our local authorities suffices, it isn't an international matter»

TRIESTE. The Free Port is not at all an obstacle to the transformation of Porto Vecchio. To use those areas it is not necessary to run after 25 countries part to the 1947 Peace Treaty to have their consent. It is not true that it is an "international" area and therefore untouchable. And it is not true either that to change things in a way which is generally considered the best one, it's necessary to get the Italian Foreign Ministry, Government and Parliament involved and to adopt new laws.

Here ends the second, uneasy and at times confused debate about Trieste, where all options (positive, negative and half-way) have congealed in the past few days. These are the considerations made by Minister of Foreign Affairs Franco Frattini; they correctly call the competent bodies, i.e. simply the local authorities, to take on their responsibilities.

Comment: The Minister says: "To use the areas in the Porto Vecchio the will of our local authorities suffices, it isn't an international matter". Clearly the Minister has never read "The Instrument for the Free Port of Trieste", that is Annex VIII to the 1947 Peace Treaty with Italy which remains the ruling law in the territory of the Porto Vecchio. "To use the areas in the Porto Vecchio" it doesn't suffice at all "the will of our local authorities" in the meaning of "Italian local authorities", because "... it is an international matter".

Why?

To use the areas in the Porto Vecchio there must be a Director of the Free Port of Trieste (FPT) who, according to art. 18(2) of the Instrument for the FPT, cannot be an Italian or Yugoslav citizen and must be nominated by the Governor of the Free Territory of Trieste (FTT), who, according to Annex VI "PERMANENT Statute of the Free Territory of Trieste", art. 11(1), cannot be either an Italian or Yugoslav citizen, nor he can be a citizen of the FTT. Therefore, before one can "... use the areas in the Porto Vecchio" it's necessary to install a Governor of the FTT, and this falls within the competence of the UN Security, **therefore "... it is an international matter" and "...the will of the local authorities" of the Italian administration doesn't suffice.**

The Minister says furthermore: "it's not necessary to run after 25 countries part to the 1947 Peace Treaty to have their consent". The 1947 Peace Treaty with Italy was signed by the 20 nations which had won WW2, while Italy was compelled to sign it because it had lost the war; so there are 21, not 25 nations involved. As to this other Minister's statement "It is not true that it is an «international» and thus untouchable area", Annex VIII, art. 3(2) is quoted: "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", **so it's perfectly clear that it is an international area and therefore cannot be managed by a single State, since no laws of any State in the world, including Italian laws, can be applied in this territory, just because it belongs to all nations.**

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Q.: Minister Frattini, the concession for a re-use of the Free Zone of Porto Vecchio for civil purposes is a matter of confrontation. Appeals have been lodged with the Regional Administrative Tribunal, someone says that any changes must be approved of by 25 countries.

A.: We made a study into this matter and I'd say that it is not at all such a difficult question.

Comment: If he had really studied this matter, he wouldn't say it is simple.

Q.: But in Trieste a lot of different opinions are going around, from political and technical point of views.

A.: Today the status of the Free Port of Trieste is regulated by the London Memorandum of 1954. Obviously, the Memorandum has passed the Treaty of Peace. The Memorandum was signed especially to this end and it has conferred the Free Port a status that allows for customs facilities, compared to the ordinary regime of free ports. But this doesn't mean that it is totally unchangeable.

The London Memorandum of 5 October 1954 is simply a letter of intent signed by 4 ambassadors in London which has never been taken into consideration or ratified by the UN Security Council. The latter is the only authority which is competent for the territory of the FPT, which includes the Porto Vecchio. **So, the said Memorandum cannot overrule the Peace Treaty, since the latter defines the territorial and political boundaries of today's Italy.** It is not true that "... the Memorandum has conferred to the Free Port a status that allows for customs facilities, compared to the ordinary regime of free ports" since art. 5 of the Memorandum states that:

"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." This means that:

- The Free Port (FPT) is an extraterritorial territory or say an international State (see 16th UN Resolution of January 10, 1947) incorporated in the FTT which must be administered with the provisions of the Instrument for the Free Port (Annex VIII, article 1 and 3.2.), so the territory is subject to this laws which can not be changed (or shortened in his articles) by any State in the world even from the Free Territory of Trieste, let alone Italy.
- The territory of the FPT is flying the UN flag (white globe on blue background) regarding its law since its registration on 10 January 1947, and will fly for ever this flag or say the flags of all nations, and furthermore the territory flies the flag of the FTT (white halberd on red background) for the hosting nation (Annex VI, art. 8).
- The FPT can be managed only by Free Territory citizens (Annex VIII, Art. 18.3 and 21.2). Furthermore the director of FPT can not be an Italian or Yugoslav citizen (Annex VIII, Art. 18.2) but can be of any other nationality including the FTT nationality.

Therefore, the so called "...customs facilities.." in the Porto Vecchio are obvious because the territory doesn't belong to Italy or to any other State in the world – so who should one pay customs to?

Q.: So what can be done, or what must not be done?

A.: There is only one obligation, that is to reconcile concessions (for town planning, commercial, cultural or other purposes) with the guarantee that the international commerce will

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be able to benefit from the extra-customs regime also in the future.

Comment: *“There is only one obligation”*, that is to stick to the provisions of art. 5 of the London Memorandum – any other solution would be against the law.

Q.: And is this the key problem?

A.: **But, caution, it is Italian territory.** It simply benefits from privileges thanks to the extra-customs regime. This has practically two consequences: firstly, it is forbidden to reduce the extent of the Free Port, because this would modify the international obligation to keep the port usable. Thus, the only international obligation regards the foreign merchant ships. Secondly: **if, on the contrary, the Free Port is to be extended or moved elsewhere, in order to improve its functionality, this is not at all forbidden.**

Comment: The Minister says: *“But, caution, it is Italian territory”*. This is not correct because art. 3(2) of Annex VIII states the following: *“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”, therefore it is NOT “Italian territory”*.

As to the statement: *“... if, on the contrary, the Free Port is to be extended or moved elsewhere, in order to improve its functionality, this is not at all forbidden”*, art. 3(4) of Annex VIII states that:

“In case it shall be necessary to increase the area of the Free Port such increase may be made upon the proposal of the Director of the Free Port by decision of the Council of Government with the approval of the popular Assembly”.

So it's obvious that the Minister, except for the statement “... or moved elsewhere, in order to improve its functionality” since it can not be moved, is perfectly right when he says that “... this is not at all forbidden”, but certainly will not be the Italian government to do so, also because it would be a patent violation to get round the law on such an important matter, which states that the request must be put forward by the Director, who, as we well know, can be neither an Italian nor a Yugoslav citizen; and also to adopt as Italian Government and Italian Parliament something which falls under the competence of the Government and the Popular Assembly of the Free Territory. The latter Government and Popular Assembly is made up by the citizens of the Free Territory, whom the PERMANENT Statute of the FTT in art. 6(1) describes as follows:

“Italian citizens who were domiciled on 10 June 1940 in the area comprised within the boundaries of the Free Territory, and their children born after that date, shall become original citizens of the Free Territory with full civil and political rights. Upon becoming citizens of the Free Territory they shall lose their Italian citizenship.”

with the addition of all those who were born within the boundaries of the Free Territory after that date, according to art. 4 of the PERMANENT Statute of the FTT and art. 15 of “The Universal Declaration of Human Rights”, of 10 December 1948:

- ***“(1) Everyone has the right to a nationality.”***
- ***“(2) No one shall be arbitrarily deprived of his nationality nor denied the right to change his nationality.”***

Q.: So, is it enough to guarantee the dimension of the access? Moreover, we are dealing here with enormous ex harbour facilities, which are no longer in use and in a state of neglect. Who is in charge of the area, as far as the Free Zones are concerned?

A.: **The Free Port of Trieste hasn't an international status. It's Italian territory. The decisive**

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power lies with the central or local authorities, provided they comply with the laws on town planning, environmental protection and so on. In these sectors they are totally free to act. The only obligation is to guarantee the freedom of using the port according to the customs rules. So, the Free Port can be moved without any problems.

Comment: The statement “*The Free Port of Trieste hasn’t an international status. It’s Italian territory. The decisive power lies with the central or local authorities,..*” is also wrong because the so called “*..Free Port of Trieste..*” has “*..an international status..*” and is NOT “*Italian territory*”. **So the decisions about its administration is of the citizens of the Free Territory of Trieste, which extends territorially from the mouth of the River Timavo to the mouth of the River Quieto (Mirna) near Cittanova, in the territory of the Military Provisional Administration of the B-Zone, today occupied by the Republic of Croatia.**

Also it should be noted Article 23 of the Instrument for the Free Port of Trieste which is obviously valid for all countries even though Italy has pledged to apply only Articles 1 to 20 of 26. Article 23 cites:

“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.”

Q.: Who is competent: the Government, the local authorities or both?

A.: There is no need of a law to move the Free Port, since the above said limitations don’t apply. It’s enough what applies to the entire Italian territory: if the compulsory functionality is guaranteed, the decision can be made by any local authority, whether the Prefetto, the Soprintendenza, the Mayors or the Governors.

Comment: The Minister says: “*The decision can be made by any local authority, whether the Prefetto, the Soprintendenza, the Mayors or the Governors*”. **Also this statement is wrong because “the decision can be made by any authority...” provided it is NOT an Italian authority but one of the Free Territory of Trieste.**

Q.: So, no obstacles?

A.: If the area of the Free Port which is open to foreign ships is not reduced, there are certainly no obstacles.

Alas, as long as in the Free Port of Trieste there is no free access to international waters, as stated by the 1947 Peace Treaty with Italy, art. 4 (land and sea boundaries between Italy and the FTT) and art. 11(1b) (sea boundaries between the FTT and Yugoslavia), and mapped in Annex I, the so called “*... area of Free Port as open to foreign ships*” ISN’T at all open to free navigation, as foreseen in art. 5(1) of Annex VIII to the said Treaty:

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“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”

and in art. 8:

“Inspection by the authorities of the Free Territory shall be permitted within the Free Port to the extent necessary to enforce the customs or other regulations of the Free Territory for the prevention of smuggling”.

Why is it so?

At present, the ships arriving at and leaving the FPT are subject to controls by the Italian authorities. This abnormal situation, that is an international port without access to international waters, is due to the violation of the Convention of the Territorial Sea and the Contiguous Zone of Geneva, 29 April 1958, which in art. 25 states that: *“The provisions of this Convention shall not affect conventions or other international agreements already in force, as between States Parties to them.”* This patent violation which *“shall affect”* the international agreements signed and ratified by 21 nations, including Italy and Yugoslavia, within the 1947 Peace Treaty was bilaterally decided by Italy and Yugoslavia in art. 2 of the Osimo Treaty of 10 November 1975, and further underlined in the exchange letter Annex V to the said bilateral Treaty.

Conclusions

- **The Free Port of Trieste is an international territory with its own Legal Administrative Instrument**
- **The Free Port of Trieste is part of the Free Territory of Trieste and both territories are recognized by 16th Resolution of the UN Security Council, voted on 10 January 1947, as sovereign States with their own legislation**
- **The Memorandum of Understanding is a letter of intent signed by 4 ambassadors in London on 5 October 1954 with which Italy commits itself to administer the Free Port of Trieste according to the first 20 out of 26 existing articles of Annex VIII of the Peace Treaty 47’ and doesn’t give to Italy or Yugoslavia any territorial sovereignty on the areas of the Free Territory of Trieste which are under their provisional administration, least of all an Italian territorial sovereignty on the Free Port of Trieste.**
- **The access to and from international waters to the Free Port of Trieste is prevented by the Osimo Treaty of 1975, that changes the sea boundaries of the Free Territory of Trieste as sanctioned and ratified by the 1947 Peace Treaty with Italy, which is an international treaty, thereby patently violating the Convention of the Territorial Sea and the Contiguous Zone of Geneva, 29 April 1958.**
- **The FTT and the FPT are demilitarized territories under direct responsibility of the UN Security Council, therefore Italy can not make arbitrary decisions regarding the territory of the Porto Vecchio of Trieste, because its administration lies with the international community and the citizens of the Free Territory of Trieste.**
- **The Free Port of Trieste cannot work without the Free Territory of Trieste.**

The President of the CommitteeFPT

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

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