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INTERNATIONAL BUSINESS ASYMMETRIES IN AN ENLARGING ENVIRONMENT – PRACTICE AND OPERATING DEVELOPMENTS IN THE EU

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ABSTRACT

The perspective of a successful continental economic integration relies on specific stratified beneficial factors or combination of factors as well as on the evolution of institutional and legal business homogeneous local infrastructures. Investments and international outsourcing activities are generally stimulating the globalization processes, the consequent wave of mergers and acquisitions, especially in the finance, commerce and telecommunication sectors, are consolidating the efficient enterprises structure and their international headquartering and development. A heated debate is going on among academics and politicians and bills seeking to restrict outsourcing forwarding industrial activities have been recently discussed in several European States; it is difficult to deal with these issue dispassionately, considering the European enlargement process and no attention has been put on pre-existing and growing spectacular asymmetries in both finance logistics and transportation industry. Outsourcing and FDI and global logistics are probably a plus for the economy in the long run. Any economic change, whether arising from trade or technology, can cause painful dislocations for some activities, anyway large scale emigrations would represent a worse scenario

During the last century, the historical lag between the institutional political regulations and current business requirements and perspectives have been advocating some asymmetries in a highly diverging environment and the viable solutions adopted reflect ancient advantages and leave unexploited some local favorable provisions and natural assets. In restructuring and discovering the business and firm appropriate configuration, within the competitive frameworks, the successfully growing enterprise eventually requires a global strategic integration as an option to redevelop an international locally self-sustaining production independent units network. Pending the EU association and adhesion phases, the relocating factors are showing an integrating economy over all the European Continent with some few specific coordinating, managing and financial pooling centers. All these factors should be considered from the legislative and institutional bodies stemming from a national oriented economic pattern. The global economy as a resulting alternative to outdated autarchic attitudes in a

competitive global market must reconsider some preexisting asymmetries within the European scenario.

1. HISTORICAL PERSPECTIVES: THE NORTH ADRIATIC HINTERLAND

Asymmetries in a Growing Europe.

“The Italian-Slovenian border, in its transformation to an inland border, represents the progress of the European citizenship, in taking part to the integration benefits and to the Europe’s progress. Even for the national minorities, the connected juridical tutorship are factors in further benefits sharing and communication among people commonly belonging to the European Union¹”

When it turns out to be a prerequisite to verify the expected benefit, as stated in the preliminary phases of the European association, the Italian Slovenian eastern border has become one of the most relevant and tantalizing area, with regard to this common goal as a historical ideological and ethnical confrontation land.

The converging different peculiarities come across in the Trieste and Gorizia neighbourhoods outstandingly, territories that show peculiar characteristics that have always motivated the *Special Status* of the *Region Friuli Venezia Giulia*, with the inclusion within the Treaty of Peace of the *Free Territory of Trieste*, project overthrown by the cold war but clearly reflecting the history of the Region, with deep and old motivational and ethnic multinational roots.

On the fourth of February 1944, a member of the CLN *Venezia Giulia*, Mr. Emanuele Flora, sent to Carlo Sforza, who was heading the North Italian Liberation Committee, this message: *“One approach of yours to the Allied and Yugoslavian leaders is urgent to achieve an agreement about Trieste, to make possible and principally activate a local Italic Yugoslavian cooperation, making it more and more efficient and lasting. We propose a solution that, starting from a preliminary Italian sovereignty according to the self-determination principle, would transform the harbour in an international ‘corpus separatum’ with an inland custom free zone. The Corpus separatum would be administered by all the interested States. Same solution for Fiume. We keep, search and develop direct contacts with Slav partisans and alongside are fighting against the Germans; we would appreciate a reply as soon as possible.”* Felluga and Miani, same level members, dissented about this message; with Flora they constituted the *Action Party* in the *Giulian Region* leading team².

¹ Message sent by Mr. Ciampi, President of the Republic of Italy to the Mayor of Gorizia Mr. Vittorio Brancati in occasion of first of May 2004.

² *Proponiamo soluzione che partendo da premessa sovranità italiana Trieste conforme diritto autodeterminazione, trasformi porto in ‘corpus separatum’ internazionale con retroterra zona doganale franca. Flora Emanuele 4 febbraio 1944 from CLN Venezia Giulia to Carlo Sforza CLNAI21 August 1944 Reuter.... Carlo Sforza comments: "almeno Trieste potrebbe rimanere italiana, magari con il porto internazionalizzato..."*

The administrative peculiarities of this territory have ancient deep roots which stem since 1716, after the Gorizia's same year earthquake, when a first function of the *Isonzina* area appears in 1717 within the proclamation of the *Free Sailing Act* in the Adriatic Sea³, when the Gorizia's municipality, requested to provide trades and asked for *Buccari, Fiume, Trieste, Aquileia* and *Duino* to be declared free ports.

Exemptions and special *status* to non residents were granted as they decided to settle and invest in the area. Charles VI, encouraged by Casimiro Donadoni from Bergamo, refurbished the major roads leading from inland to the harbour and assigned the *Free Port Statute to Trieste* in the year 1719 which became the town real and only growth factor.⁴

In the border zone, up to the year 1420 the *Aquileia Patriarchate* had dominated the old Celtic Friuli, typically mountainous with an agriculturally oriented economy, with a local peculiar language the Friulano, an oriental version of a ladin language⁵. The near by *Gorizia* Countee, before the Habsburg dominance, up to the *Count of Gorizia and Tirol* Henry the 2nd who had been ruling till 1500 his broad possession as lord of *Treviso*, from the Bruck Castle near Lienz to Conegliano, had always been a Region characterized by the Italian-Venetian accent, comprehensible down till to the *Bocche di Cattaro* in *Dalmatia*, where until today the typical *Serenissima* accents resonate, which are common in the Gorizian Countee first and in the Triestine dialect later.

In the year 2004, *Trieste, Gorizia, Monfalcone, Sezana* and *Koper* are again commonly involved on a historical reunion within the area of the old Countee of the North East Region, at the end of the Northern Adriatic sea which, during the last 1800 years, has seen the struggle of the Western and the Eastern Empire, that of the Mediterranean Latin culture against the invading Celts, that of the Illiric Republic against the Cisalpine one and, finally, that of the force of the Warsaw Pact against the Nato Alliance, always the Indo-European languages against each other within the *Microcosm* in an *Euro Region*.

The European integrating process, started with the Rome Treaty in the year 1958, swollen later trough the last fifty years and still in full expansion, in order to consolidate and further proceed to the final political union, which everyone seems to desire and work for, requires some reconsiderations, considering the historical Slovenian adhesion. In the initial and final 1996 acts anticipating the Slovenian adhesion, there is an unambiguous legal proposition, conveyed eventually in the association and by now

³ Charles VI declares the free sailing in the Adriatic Sea and promotes land and maritime trading in the Empire according to the suggestions of prince Eugenio from Savoia. He formally asks the Trieste municipality about the best location to start the free port. Trieste sends to Graz and Vienna the baron Gabriele Marenzi. Two Austrian sailing ships are sent from Ostend to Eastern India to explore the trade chances toward those regions. Also in Venice the reopening of a free port is advanced, the government refuses. <<http://www.triestemia.com/TSStory.htm>>

⁴ The king firstly (1716) ameliorate the road to the harbour, then (in 1717) issued a trade Patent proclaiming: free sailing in Adriatic; protection and guarantee to vessels carrying the Imperial flag; chance to treat as pirates all those impeding the free navigation. <<http://www.univ.trieste.it/~itccarli/italiano/cmtsport.htm>>

⁵ When the Jews were expelled from Spain in 1492, they took their language with them. In the Balkans and Turkey it was called Ladino, a corruption of the word "Latin" used to distinguish it from Turkish. <<http://www.jewishworldreview.com/0798/ladino1.asp>>

consolidated within the European legislature, representing the relevant intent protocol with the association justifications and determinants, which have become the final adhesion *charter* of the new EU member State, unique guideline in understanding the expectations and potential changes of the system as planned.

In taking advantage of the chances available and in facing current problems related to the tough global market competition, in the enlarging European environment, these Adriatic areas, culturally detached from the major Northern Sea financial centres, already developed and well connected in the global economy since the Renaissance and the colonial conquests⁶, must now reconsider their local strategies and synergies, often rushed and fragmentarily constructed in several diversified historical backgrounds.

It is worthwhile to remember how, in formalizing the Association of The Republic of Slovenia to the UE, among the final declarations expressed on the tenth of June 1996 in Luxembourg, as entirely reproduced in the Italian ratification, law 23rd march 1998, n. 108, among other relevant statements, we find:

in the aforesaid statements *Considering the final objectives of the agreements signed in Osimo in November 1975 between the Socialist Republic of Yugoslavia, whereas the Republic of Slovenia has become a successor, and particularly the **agreement about the promotion of economic cooperation between the two countries;***

.....

at art. 73

4. Particular attention must be given to the measures apt to promote

- **the cooperation among Slovenia and the Countries in Central and Eastern Europe...**

at art. 88

2. To this goal the following actions are foreseen.....

- **Common actions of regional and local authorities with regard to the economic development.**

at art. 94.....

2. In particular, the cooperation includes:

.....

- **the enactment of across border mutual infrastructures;**

at art. 108.....

..... in the free zones that may be

- **activated through agreements between the Republic of Italy and the Republic of Slovenia, according to the agreement on economic cooperation signed in Osimo in 1975.**

at art. 127.....

The current agreement is entered for an unlimited period of time.

To better understand the meaning of the Association *charter*, it appears worthwhile to also remember that, according to the special formal provision inserted in the *Treaty of Rome* and relating to the validity of all previously enforced international treaties, the local existing instruments are historically connected to:

⁶ Amsterdam was the world financial centre and the Dutch fleet the greatest in the world. <<http://www.u-s-history.com/pages/h561.html>>

- the Trieste free Port statute as originally granted by Charles VI in 1719,
- the incorporation of the Illiric Provinces, which first Governor up to the year 1813 was the Napoleon's Minister of Interiors M. Giuseppe Fouché,
- the chartered by Austro Hungarian Monarchy *Austrian Küsterland*, including Gorizia, Gradisca and Trieste,
- the *Reichunmittlebarstadt*, Austro Hungarian free zone, exempt from military service up to the year 1895, with regard to the complex Central European and bordering Nations requirements, as separately outlined in the S. Germaine separate treaty of peace, signed jointly by Italy and Austria, reinstated unhappily in the *Adriatisches Küstenland* within the third German Reich,

and finally still enforceable as:

- the provisions of the treaty of peace of the 10th February 1947⁷, maintaining the free port status and the enacting of the *Free Territory of Trieste*, turned down by the aggravating cold war the latter and blurred by the informal free port function exploited *pro tempore* by the port of *Koper* in Slovenia the former. This has been a basic international law and formalized multinational pact, where the free port provision enforcement is still achievable in the consolidating body of laws, never disputed in any international court, neither historically amended by any authority ever and whose enforceability should be unquestionably expressed by the Court of the European Community in Luxembourg, as soon as such an issue would be there filed in the appropriate procedure,
- the 1947 annexed VIII to the treaty of peace, which at art.1 states that: "*In order to guarantee that the harbour and transit infrastructures of Trieste be available in equal degree by all the international trade and for Yugoslavia, Italy and the countries in central Europe, as customary in the rest of the free ports the world over*";
- the EU Rome charter in which the EU, at the original art. 234⁸ of the European Union, unmistakably endorses the validity and legitimacy of all the existing agreements former to the treaty of Rome, the art. 234, indeed, establishes that : "*The provisions of the current agreement do not distort right and obligations stemming from conventions come into effect before the enforcement date of the treaty itself, between one or more member State on one side and one or more States on the other*";
- furthermore as the Treaty of Peace has been consolidated and bears an enlarged conventional nature, to it is also applicable the 1969⁹ Vienna Convention which grants safeguard and compatibility clauses: at art. 30, § 2, indeed, it is said: "*When a Treaty specifies that it is subordinated to a previous or successive treaty, and that it must not be considered incompatible with this other treaty, the clauses of this treaty prevail*";

⁷ "The definitive treaty of peace is an unilateral act imposed to Italy and accepted by its post-war government." <<http://www.cronologia.it/storia/a1_947aa.htm>>

⁸ Now has become art. 307

⁹ The art. 31, sec. III, of the Vienna convention on Treaties law statues the importance of the ... *ordinary meaning* as basis to the interpretation. According to the International Law Commission comment: *The Article ... is based on the view that the text must be presumed to be the authentic expression of the intention of the parties; and that in consequence , the starting point ... is the elucidation of the meaning of the text.*

- the London Memorandum of 1954, which at the point 5 acknowledges that: “*The Italian Government engages itself to keep the Free Port of Trieste according to the articles form 1 to 20 of the annexed VIII to the Treaty of Peace with the Republic of Italy*”;
- the present Italian Custom Code reflecting the provisions of Custom laws as inserted in the D.P.R. 23 January 1973, n. 43, where at art. 169 it has been formally stated that: “*Regarding the Freeport areas included in the annexed n. VIII to the Treaty of Peace among Italy and the allied and associated Powers, signed in Paris on the 10th of February 1947 and enforced under the legislative decree issued by the transient head of State on the 28th November 1947, n. 1430, remain in force the previous rules when more favourable*”.
- the Treaty of Osimo enforcing law 14 March 1977, n. 73, which definitively defines the configuration of the political Italo-Yugoslavian border where at art. 1 has been proposed an agreement: “*about the economic cooperation promotion ...with... four related annexed*”, the first of these is the Protocol illustrates the *Free Zone*. In it the parties had envisaged the institution of a Free Zone where the *Free Port of Trieste*¹⁰ *legal status will be applied* and at the art. 4, I° co. of the same law necessary implementations of ***infrastructure and plants aimed to the improvement of economic activity on the borderline territories within the Region Friuli Venezia Giulia*** have been predicted;
- the law n.19/91 where at art 1, § 1, the reference to the international economic activities and cooperation development of the *Region Friuli Venezia Giulia* have been reaffirmed, considered its territory as a specific geopolitical location, as frontier border line of the EU. Therefore, instruments capable to develop economic cooperation are to be provided and, according to its provisions, “***instruments capable to develop financial and economic cooperation with Austria, the Central and Balkan Europe, as well with Russia.... as well ... to evaluate the Pentagonale Initiative***”¹¹;
- the law 108/98 in the art. 108, where the “***reference to free zones according to the protocol on free zones as outlined in the law n. 73 of 1977,***” defined Osimo agreement clearly appears.

The above listed laws and bylaws seem consistent, with the foundation of the association instruments, where the main beliefs of the delicate role that the Republic of Slovenia has been assuming an essential interface between Western and Central and Eastern Europe, surfacing after half a century of self segregation and cold war, marked by isolation and autarchy and from a social system characterized by progressive decline and worsening of most of the material and moral social conditions.

Whenever the Association of new States to the EU and among those that of the Republic of Slovenia, will actually improve the integration processes of distinct economies within

¹⁰ It refers to the five free ports in Trieste:

- The old free port
- The new free port
- The *Scalo Legnami*
- The oil pier
- The industrial free port

¹¹ Now C.E.I. (Central European Initiative) with headquarters in Trieste and seventeen member States.

the EU single market, the merchandises and services flow, activated by further progressive integration of the remaining Central and Eastern European Countries, will start to press over the North Eastern Adriatic hinterland and within the fifth Pan-European corridor in the *Giuliana* Region.

The area *Giuliana* will become henceforth a natural hub calling for adequate infrastructures and clear legal comprehensive operating competitive frameworks and instruments.

Equally, the progressive economic Asian expansion and particularly the Chinese one, since China has become a full WTO member and has been actively present over the European market, already overridden by marginal activities in the field of restoration and retail distributions activities, will not take too much time to jam the Suez canal in direction of the Adriatic sea and toward Central Europe, where Northern East bordering areas of Italy and Slovenia are the natural best hub for goods coming from far East along the Southern Rim and all the pertaining Countries.

2. PRESENT ASYMMETRIES: THE TRANSPORTATION AND LOGISTICS

At same time, the smart Northern Conference system, supplying transportation and logistic combining maritime and railways shipping services, in the Belgium, Dutch and Hanseatic cities area, alongside the Northern Range, ever since supported by the preferential German railways tariffs system, had been progressively monopolizing most of the European traffics and, since 1999, as a symptomatic example, the huge German *Eurokai-Eurogate* conglomerate, owning the Hamburg harbour and shareholder of the Bremenhaven e Antwerp harbors, pursuing the consolidation of the logistics and European transportation dominance target, has stretched its tariff dominance over the Atlantic and the eastern transportation routes to and from continental Europe¹².

On the same geographical position and within the logistic and transportation infrastructures system, nowadays appears also the hypothesis of a *Transversal Trans Siberian path*, otherwise known as *Trans Siberian Land Bridge*, or *Euro Asiatic Development Bridge* which, in transportation terms, represents the evolution of Sir Halford John Mackinder¹³ predictions. In the year 1904 he was already fearing the connection of continental Europe with the Euro Asiatic mass and, through this platform, with all the Pacific coast countries. Such a hypothesis would rekindle a renowned *Heartland*, the hinge of the world, opposing the *Rimlands*, which represents the necessary alternative communication ways essential in the infrastructural integration of

¹² "In the last decades many changes occurred in the liner shipping industry as well as in the market structure and in the organization of port terminal operators. Due to the necessary linkage existing between liners and port operators - it is not by chance that efficient ports are those in which goods pass through from ships to inland means of transport as smoothly as possible - the latter changes may be often considered as answers to changes occurring in liner shipping." Claudio Ferrari & Marco Benacchio, Market structure in container terminal operators and port services, in *Iame (International Association of Maritime Economists) "The Maritime Industry into Millennium"*, Naples 13-15 September 2000.

¹³ Halford J. Mackinder, *Democratic Ideals and Realty*, 1981, Westport, CN.

Eurasia on the Southern borderline up to the Suez Canal. Along the transversal Trans Siberian road to Brest in Byelorussia, the railways link will require about two weeks, from Brest the forwarding of the merchandise would follow the Warsaw direction to connect to the strategic 3rd corridor, Kiev-Warsaw-Berlin-Paris, already in an advanced construction stage and heading toward the ending of the 5° corridor.

In effect, in integrating West and East, the road Donetsk, Persia, India, China, a likely Southern alternative to the Trans Siberian backbone, seems cheaper and easier and faster joining the Mediterranean to Europe and to the most developed side of Asia than any Northern alternative; in this perspective, the 5° corridor would require a Southern deviation to connect the Donetsk area in Ukraine, the most industrially developed area in the country. It is renowned that a railway unit cannot load more than 30 TEU of 91 m³, but for sure, this size could allow a transcontinental shipment volume of units ready for fast delivery at fast rotation, a kind of priority vehicular flow that, due to the volume of potential interchange, would assume characteristics of high speed and heavy load within the inevitable economic integration process going on between East and West. In the coming years, several *district-parks* will be available along the Oriental EU border line, now in progressive approaching to the Far East areas. Some of these logistic instruments are already operative in Rumania, Hungary, Poland but several other *district-parks* are foreseeable also in Ukraine, Croatia e Bulgaria.

Considering the current industrial evolution and the high technological production manufacturing, the potential market for forward industrial outsourcing processes is swelling and represents, in this day and age, a highly relevant competition factor, considering, as well, the lower wages in all these countries, where quality is anyway increasing, when compared to the western standards and the persistent expressed desire to lower economic inequalities among countries.

The impressive goods flow between Central Asia and Europe is at this time supplied by almost three operators: the Swiss corporation ICF *Mixed Block Trains*, the German *Transchaft International*, a division of the DB-Cargo *Ganzzugverkehr* and the Polish *Polzug Silk Road Express*: they provide integrated shipment services on the routes *Ostwind*, currently to almost all the European operators interested in the globalization processes.¹⁴ In China, in the prediction of a huge trade volume, only potential but already very significant, the investments in infrastructures are heading toward the logistic delivering hubs of *Shenzen*, Peking, to the free zone in Shanghai and the port seems enormous as large investments have been made to create networks of pan-Chinese logistic hubs by the principal world-wide operators as APL *American President Line*, *Maersk*, P&O e la *NYK Nippon Yusen Kaisha*.

Presently, nevertheless, almost all the incoming and outgoing world traffic from Europe passes through the *Northern Range* gates, leaving only 10% to the Mediterranean harbours, which circumstance is aggravating the European asymmetries.

¹⁴ Some new positive attitudes appear also at scientific and institutional level: Jagdish Bhagwati, In *Defense of Globalization*, NY 2004.

Table 1 Major harbours world containers traffic, year 2002

World Ranking	Port Name	Trade Region	Total TEU
1 (1)	Hong Kong	East Asia	19144000
2 (2)	Singapore	South East Asia	16800000
3 (3)	Busan	North East Asia	9453356
4 (5)	Shanghai	East Asia	8610000
5 (4)	Kaohsiung	East Asia	8493000
6 (8)	Shenzhen	East Asia	7613754
7 (6)	Rotterdam	Northern Europe	6515449
		North America West Coast	
8 (7)	Los Angeles		6105863
9 (9)	Hamburg	Northern Europe	5373999
10 (11)	Antwerp	Northern Europe	4777387
11 (12)	Port Klang	South East Asia	4533212
		North America West Coast	
12 (10)	Long Beach		4526365
13 (13)	Dubai	Mid-East	4194264
14 (17)	Yantian	East Asia	4181478
		North America East Coast	
15 (14)	New York/New Jersey		3749014
16 (18)	Qingdao	East Asia	3410000
17 (15)	Bremen/Bremerhaven	Northern Europe	3031587
18 (20)	Gioia Tauro	West Mediterranean	2954571
19 (16) *	Felixstowe	Northern Europe	2750000
20 (19)	Tokyo	North East Asia	2712348

<<http://www.ci-online.co.uk/>>

Overall Teu Traffic: first 20 ports Year 2002 - Geographic Area¹⁵

-	Asia	84.951.148	65,89%
-	North Europe	22.448.422	17,41%
-	Nord America	14.381.242	11,15%
-	Middle East	4.194.264	3,25%
-	Mediterranean	2.954.571	2,29%
-	Total	128.929.647	100%

¹⁵ <<http://www.ci-online.co.uk/>>

Absurdly, a large size of the Italian outward export traffic asymmetrically gravitate towards the *Northern Range* harbours: the reason lies with the remarkably higher Italian railways fees: from Munich, Bavaria, it is cheaper to send goods to Rotterdam than to La Spezia or Trieste, although there are 300 more km; from Milan, often *Northern Range* harbours are preferred despite the Adriatic or Liguria harbours; these bizarre situation is likely due to the Italian railways incomplete deregulation, and to the stratified and consolidated advantages and subsidies of the *Northern Range* railways and related maritime facilities which have been growing and capitalizing since the end of the second world war. In Italy, the enormous and insane volume of road trucking and lorries servicing the major volume of transported goods has not been helping the evolution toward a more efficient transport industry in a highly competitive opening market.

Apart from being a road and railway communication framework, the Northern part of the Adriatic Sea and the hinterland of Gorizia, Koper and Trieste, in the fifth corridor system, may represent a synergetic industrial and commercial intermodal system in the circulation and handling of merchandise and goods through physical, geographical and temporal transformations, which extent would not exclude the interaction through *spot* and *forward* commodities transactions, finished products to be transformed in order to reach the free circulation admission by the local custom authorities on goods coming from any region of the world.

In the Slovenia Association charter, such a pillar function has been finely detected but the rivalry between the Adriatic and the Tirennum Sea, in spite of the natural proximity, has been feeding a tough competition and has been increasing the visible lag that has now surfaced in the Adriatic routes.

For the next 20-30 years very little will be made on the Northern transcontinental corridors, which are potentially linking Rotterdam to Pusan, Shanghai and to Japan and, in any case, the existing infrastructures would not be able to attract and support the huge merchandise volume stemming from Asia, estimated at this moment in 22 million TEU per year, and whose growth rate is close to 10% without considering the fact that China has joined the WTO. The pressure from Europe will not walk off soon toward the *Silk Road*, and will only slowly surface in the South of Ukraine, in the Donetz industrial region in terms of complementarities to the third and fifth corridors final stations in North Ukraine at Kiev and to the projected *Trans Siberian Landbridge*. In this framework, still relevant appear the potential hinterland role of Gorizia and Nova Gorica and the position of Trieste with its special and uncommon free port border line legislation, providing facilities to the advanced logistic activities.¹⁶ This hub, close to the harbour system of the North Adriatic and serving the Mediterranean, Suez and Gibraltar, on an evident geographical and economic position supremacy, will not fail to affirm itself as happened during the first globalization epoch in the Austro Hungarian Empire, whose impressive architectural remnants are still visible in the city's Port facilities.

¹⁶ See on this subject: <www.frezones.org>

Back in the most long lasting European peace age, after a century and a half of world wars, hot and cold, as on the eve of the Suez Canal opening, when the first circumnavigation of the globe by Massimilian of Hapsburg, sailing from Trieste in the year 1857 on the Novara warship and returning to the town in 1859, as imperial ambassador of the importance of the Adriatic sea terminals in the global economy, the Trieste region with its deep sea waters re-emerges over the scene, considering its potential European path departing from the North Adriatic heading toward East and toward North. On one side the surfacing South – North connections toward Central Europe, on the other the Central - Eastern Europe emerging from the collapsing Berlin wall, never united despite the global dreams of Cesar, Napoleon and the last German Dictator.

At this moment, the European Continent has to discover the role of the Mediterranean Sea in the progressing West - East merging economies where the Adriatic may slowly become the sea highway whose main gate, located in the area *Giuliana* has been noticeably assuming a growing potential role, facing the overwhelming particular Hanseatic harbor facilities and price structures which are somehow to be balanced.

What has to be yet discovered, clear of prejudices and misbelieves is the exceptional meaning of the special legal framework that characterizes the *Giuliana* area, as above considered and outlined, which, for various reasons and conflicting interests has never been either applied or evaluated by any competent legal authority, apart from the only related *Maltese* judgment, issued by the Court of Appeals of Trieste and its specific outstanding significance¹⁷.

3. PRESENT ASYMMETRIES: THE FINANCIAL CENTERS

Let alone the huge ancient concentration of logistic and transportation facilities, extraordinary in the *Northern Range* (Belgium, The Netherlands, Germany) not less asymmetric appears the relevance of the domiciliary and financial holding headquartering activities taking advantage on most Foreign Direct Investment activities in Central and Eastern Europe. The annexed coordinating centres which suggests a residence in the low combined local and international taxation systems prevailing in those Northern countries when agreements against double taxation meet *Participation Exemption* provisions, on foreign subsidiaries income. With a shrewd legal framework stemming from post war emergencies, The Netherlands, Luxembourg, the U.K., Austria and Belgium, among others, are applying special taxation facilities features to foreign activities with regard to the global operators. The holding status with exemptions from foreign produced incomes and irrelevant withdrawal taxation on dividends, have been attracting global operators scared by the complex Latin taxing attitudes, hardened by the

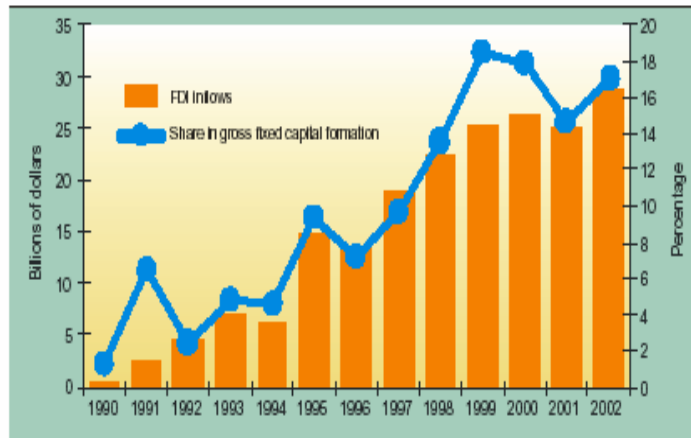
¹⁷ LS 2 August 1947 n. 811 I. IT10 February 1947 Paris, IT October 1954 London

Ai punti franchi del porto di Trieste si applica la disciplina prevista dal trattato di pace di Parigi del 10 febbraio 1947 (all. VIII), così come confermato dal "memorandum" d'intesa di Londra del 5 ottobre 1954 (par. 5), con la conseguenza che le operazioni portuali svolte in dette aree possono avvenire senza ingerenza delle autorità doganali. (Trieste Courtyard, 13 May 1997 Soc. Crossbow c. Min. fin. and another Foro it. 1998, I,1318 note (MALTESE))

prevailing public deficits, stability pacts and often impenetrable and complex legislations.

The Central Europe appears today as the centre of the whole world's foreign investment flow: according to the Conference on Trade and Development of United Nations, in the dynamic of FDI in the ex COMECON¹⁸ area a spectacular rate of growth has been observed and an asymmetric pattern, notwithstanding the stagnation global FDI phase.

Figure II.19. CEE: FDI inflows and their share in gross fixed capital formation, 1990–2002



Source: UNCTAD, FDI/NC database (<http://www.unctad.org/fdi/statistics>).

In the study of all the historical available data, reflecting the financial flows related to the foreign direct investments in Central Europe, what seems surprisingly recurring is the steady constant presence of The Netherlands platform as a source of capital, affirming itself over its actual financial structure – the country has only 17 millions inhabitants out of the 337 millions before the 2004 European enlargement corresponding to 4,2% - and has always been on top inside the financial statistics of the European Union, as detailed in the underlying table considering the Czech Republic, or more in general in the evolution of all the European Union financial flows stemming from the most developed and relevant areas supporting global firms as shown in the same table.

In the case of the Czech republic, the evolution of the 1993-2003 data, outlines the effect of the Netherlands appealing services to the global enterprises, searching for strategic headquartering paths reflecting the desire to reach satisfactory tax planning schemes, as well as the relevant presence of the German industry, perceptibly active in the outsourcing processes.

¹⁸ Brian Carnell, *World Investment Fell Everywhere But Central and Eastern Europe in 2002*. <<<http://www.overpopulation.com/articles/2003/0007.html>>>

Table 2 Czech Republic: Inward Foreign Direct Investment by Industry and Country

	1993	1994	1995	1996	1997	1998	1999	2000	2001	2002	2003
W. Europe											
Belgium	27	28	19	46	50	42	1293	57	180	464	135
Denmark	2	4	9	9	3	22	40	112	175	100	7
France	29	65	130	16	90	127	218	252	1.718	151	462
Germany	70	353	439	199	347	855	1219	1433	1.466	4.942	733
Un. Kingdom	0	32	41	67	174	310	98	171	484	-234	240
Italy	10	10	1	72	-32	24	44	39	-2	135	62
Netherlands	26	5	569	207	119	748	1061	1123	1.059	1.305	-1.383
Austria	47	68	67	166	84	370	782	800	295	809	542
Sweden	10	16	17	45	79	-62	119	160	23	115	17
Switzerland	12	33	525	44	42	100	332	247	196	288	233
Canada	17	0	0	0	0	-4	10	168	81	-119	14
United States	218	33	78	202	88	477	545	328	273	201	180
Japan	0	4	0	31	10	21	5	50	33	123	224
Other	91	83	86	38	100	289	169	464	317	731	822
Total	559	734	1982	1140	1152	3317	5933	5404	6.296	9.012	2.289
Source: Data provided by the Czech National Bank. <<www.cnb.cz>>											
* Until 1997 data included FDI in equity capital, starting from 1998 data on reinvested earnings and other capital have been included in FDI flows. 1993–2003 (In millions of EUR)											

Such evidence is consistent on the basis of the above table data which reflect the EU financial flows to and from no EU members counterparts and where the relevant role of

the Netherlands is again astonishing, considering the significance of this country in terms of population and GDP.¹⁹

The occurrence is recurring in Central Europe and in Hungary as well. In examining some data reflecting the year 2000 foreign investments in this latter country, on the period January – September, when the absolute presence of the Netherlands as country source of foreign investments may be understood on the sole reason of the ruling framework in taxing and hosting *holding* activities, likely reflecting the joint Netherlands Antilles and Netherlands agreements and exemption structures.²⁰

It is important to point out how the FDI financial supporting activities and their logistic controlling, coordination and management centres in general lead to the Netherlands, Luxembourg, the U.K. and, among others offshore centres, Austria, which in some way shares the common legislative framework addressed to hosting, and globally managing activities functions mostly linked to the taxation structures relevant on the capital gain, foreign income exemptions, and channelling of global activities through the wise management of the rulings against the double taxation and the lowest withholding rate available in the global tax shopping arena.²¹

The choice in headquartering a controlling and management holding company is not justified on the sole basis of such factors, characterizing the *NorthernRang* as the transportation and logistic, but also because of the outlined financial services affecting such choices.

19 Source <http://ww.eu-datashop.e/download/EN_sta_urzthema/nj_2_30.df>

20 “Dividends received by a Dutch company from an equity participation in another company are exempted from Dutch corporate tax. This participation exemption is a very important provision of Dutch legislation and is based on the principle that proceeds paid out of profits that have already been subjected to corporate tax should not be taxed again.” <<http://home.t-nline.de/home/NikolEizik/steuern_in_niederlanden.html>>

21 “Although the Netherlands has a sophisticated tax system with high tax rates some aspects of its fiscal system are extremely attractive and make it the ideal location in which to base international trading operations” <<http://www.lowtax.net/lowtax/html/offon/netherlands/nethom.html>>

Table 3 Hungary 2000 the investors' country geographic region - Euro million

Source: National Bank - Period Jan. - Sept 2000		%
Austria	19,4	2,05
Belgium	13,3	1,4
Finland	0,4	0,04
France	29,2	3,08
Netherlands	386,1	40,71
Ireland	0,6	0,06
Luxemburg	19,5	2,06
United Kingdom	17,2	1,81
Germany	123,0	12,97
Italy	19,5	2,06
Switzerland	41,8	4,41
Sweden	102,4	10,8
Other EU Countries	39,2	4,13
United States	72,8	7,68
Canada	19,8	2,09
Other American Countries	1,8	0,19
Africa	1,0	0,11
Australia	- 0,1	-0,01
Japan	31,0	3,27
South Korea	0,0	0,0
Other Asian Countries	9,0	0,95
Not allocated	1,5	0,16
Total	948,5	
O/w EU	744,2	
EMU	621,3	

Hungary, Statistics Department, <<<http://english.mnb.hu/actSearch.asp?id=7>>>

In observing the Rumanian case, a similar picture supports this thesis about actual historical asymmetries governing the localization factors over the financial European

landscape with regard to the considerably non homogeneous environment within continental Europe²².

**Table 4 Top investing countries in Romania D.F.I. stock as of 31 December 2000.
Value of the registered capital brought in foreign currency (million USD)**

No.	Country		%
1	The Netherlands	789	16%
2	Germany	549	11%
3	Cyprus	378	8%
4	Italy	340	7%
5	France	336	7%
6	USA	315	6%
7	Austria	286	6%
8	South Korea	234	5%
9	UK	213	4%
10	Turkey	197	4%
Total registered capital in foreign currency for top 10 countries		3,637	74%
Total registered capital in foreign currency		4,882	100%

Source: << [http:// www.majorcompanies.ro/digest/articles/larive.htm](http://www.majorcompanies.ro/digest/articles/larive.htm)>> National Trade Registry Office Romania I.B.D. S.R.L.

Even some State not yet included within the next candidate to the European Union membership seems to be affected by such a localization pattern, biased buy the Dutch connection model, Ukraine for instance, a relevant member of the Central European Initiative and a candidate to a further consideration and economical relevance in the European financial scenarios, shows such a confirming recurrence.

According to the Ukrainian State Statistics Committee, as of April 1, 2003 the total volume of direct foreign investment into Ukraine since 1992 had reached US\$5.604 billion. The following official Ukrainian government statistics for total cumulative direct investment by country of origin from 1992 through April 11, 2003 confirm the present pattern:

²² “As for increasing the subscribed capital, on the first places are listed the investors from: Netherland with 13 company and 37.2 million USD (34.1 million EUR), Cyprus with 15 companies and 11.6 million USD (10.6 million EUR), China with 280 companies and 10.8 million USD (9.9 million EUR) and Great Britain with 14 companies and 8.3 million USD (7.7 million EUR)”. [Http://www.onrc.ro/english/news.htm](http://www.onrc.ro/english/news.htm) (Rumania Foreign Trade Ministry 2003)

Country	(\$millions)	Percentage
United States	982.4	17.5
Cyprus	541.6	9.7
Great Britain	533.3	9.5
Germany	414.2	7.4
Netherlands	401.1	7.2
Virgin Islands	359.3	6.4
Russia	334.8	6.0
Switzerland	283.5	5.1
Austria	226.1	4.0
Korea	172.1	3.1
Other countries	1,356.2	24.1

Commercial Service and U.S. Department Of State, 200 <<<http://www.bisnis.doc.gov/bisnis/bisdoc/0307ukraineccgfy04.htm>>>

4. A NEW PERSPECTIVE AND SOME PROPOSALS

The border line between Italy and Slovenia, on one side *Trieste* and *Isontino* with the city of *Gorizia*, *Koper* and *Nova Gorica* on the other, curtailed in two when the iron curtain was dividing Europe into blocks from *Stettin* to *Trieste*, reflects today, through the Pascals' communicating vases principle, the hub of the potential advanced logistic, in the uprising of the Central and Eastern European economies, already merging in the European market reunification processes.²³

The potential activities to be implemented in the special zones, as foreseen by art. 108/98 of the Slovenian EU association Agreement, applicable in the reconversion of the border highway stations, as their function has been compromised by the removal of the custom barriers since the two countries are members of the EU, may now be rekindled as:

- *services connected to the active forwarding industrial processes* in finishing and assembling merchandise and goods to be introduced, after complying to the European production standards, through the *free circulation status* within the EU, activities already mainly located, or to be otherwise relocated abroad²⁴;
- *services connected to the passive forwarding industrial processes*, activities already mostly outsourced or to be otherwise relocated abroad, pertaining to industrial activities characterized by labour intensive production phases to be domiciled in Central and Eastern Europe;
- *trading under extraterritoriality status* with regard to the value added tax on inbound goods, and with first relevant impact on transactions to VAT subjects at the successive transfers within EU parties (Irish model);

²³ Pines M., "Le asimmetrie dell'Europa che cresce" - abstract - 57/15 Senza Confine, Ediz. Comune di Gorizia, pag. 16, Gorizia 2004.

²⁴ Pines M., "Outsourcing to Central and Eastern Europe: Free Zones Role", Rivista Trasporti-Diritto-Economia-Politica, n. 88 pagg. 71 - 86, Dicembre 2002 – Trieste 2002

- *headquartering and trading in participations, joint-ventures and similar permanent establishments* in Central and Eastern Europe taking advantage of the *participation exemption rules*;
- *providing commodity logistics and issuance of title representing commodities*: such as *warrants*, declaration of warehousing, electronic and digitally signed warehouse receipts, activation of a countertrade market with *spot* and *forward* trading facilities and exchange clearing activities;
- *setting up of a data base services provider assembling data on industrial free zones activities*, leasing of know-how, management of finishing facilities, assembling and activating production establishments under specific local rulings and special incentives aimed to the industrial development, specially in the area of the small and medium enterprises activities;
- *supplying hosting and administrative management services related to tax exempted branches and subsidiaries of global enterprises operating according to the most recent evolution of the Italian fiscal code*, interested to develop and increase activities in Central and Eastern Europe, including services in the marketing, finance, taxation, insurance and local infrastructure fields establishing and running related telecommunication services²⁵.

At same time, this area seems to be a natural hinterland backoffice to serve the Adriatic Sea highway, whenever enacted, close to the railway intermodal station in Cervignano, on the 5° Pan-European corridor and close to the *Ronchi* commercial airport.

The special cooperation provisions, unequivocally indicated in the Association agreement with the Republic of Slovenia and the legal instruments acquired along the history by this area, forcefully unexploited during the cold war years, for their juridical value and enforceability and in the scope of the opening of Slovenia toward an interface function with the continental Europe, are now just waiting for a formal substantiation of the Court of Justice in Luxembourg to fully reveal all their efficacy and usefulness to trim down some of the European asymmetries in this very delicate international strategic platform.²⁶

For the first time our countries are facing new functions and new layers of growth and cooperation and must therefore understand and take advantage of this unique chance to attenuate the financial and logistic gap with the *Northern Range* and reduce the asymmetries between the North and South Europe with respect to the logistic and transportation industry and financial logistics.

The special cooperation, as achievable in the *Gorizia* hinterland, and inclusive of the special *Trieste* Free Ports legislation applicable instruments, stemming from the Treaty of Peace of 1947, which may be extended to the maritime and inland highway cross border stations, represent an open path available to the whole non EURO world of countries developing ties with and discovering the huge EURO market. In a multilateral

²⁵ Pines M., "L'area Giuliana fra Unione Europea e Iniziativa Centro Europea", Banca, n. 20 luglio 1999, pag. 8, Gorizia 1999.

²⁶ Whenever the EU Commission would refuse to apply the art. 108 of the agreement reflecting the Association of the Republic of Slovenia on the basis of presumed market asymmetries.

perception of the globalization integrating the third Europe, servicing the huge area included along the fifth corridor, opening the way to the silk road in Ukraine, close to *Donets* Industrial area, farther heading towards Iran, India and China, it might be possible to overcome the stringent Northern range oligopoly, and the third corridor terminal in Kiev leading to the Trans Siberian road.

In the present scenery of an integrating Europe, the logistic platforms represented by the highway cross the border stations of Ferneti, Rabuiese, S. Andrea in Gorizia and Vertojba, may become a huge *hub* in the future Eruroregion, including Slovenia at the Adriatic sea, raising the relevant perspectives of an adjustment of the European asymmetries, possible through the action of the fifth corridor Lisbon Kiev and the integrated structures of the *Trieste – Koper* harbors connected to *Cervignano* and *Ronchi* airport and the financial services potential of the free port legislation in Trieste.

The present Italian fiscal code adjustment seems to proceed in this direction allowing a more flexible tax planning and financial consolidation through more easily applicable international accounting standards and taxing procedures and agreements with the taxing authorities. The mix of local population, generally speaking several foreign languages, with ancient ties with both East and West represent a valuable unique asset in promoting such a new global vision.

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