

# A Story of Waste Colonialism: An Italian-Tunisian Case



Semia Gharbi and Nidal Attia

## Introduction

The Italian waste affair took on two dimensions, Tunisian legal dimension which deals with corruption and Tunisian-Italian that falls within the framework of the Basel International Convention. The Collective of experts Réseau Tunisie Verte and civil society organizations based in Tunisia were mobilized against waste colonialism because of 282 containers of waste from Italy, carrying tons of mixed and inappropriate wastes. The trade of mixture waste entered under code Y46 and includes hospital waste, which does not comply with national and international laws. The representative of the Ministry of Environment of Tunisia indicated that the containers did not include recyclable material but only “urban and mixed waste, impossible to differentiate” and therefore were destined for disposal in landfills or incineration.

The collective strongly denounces the illegal importation by a Tunisian company of mixed waste from Italy and is indignant at the lack of firm enforcement of international laws on the transport of waste from Italy to Tunisia. It is well known to all party members of international conventions in relation to the protection of the environment and the health of citizens and their right to live in a healthy environment as provided by the Tunisian Constitution of 2020, to ensure that exceedances of laws are not observed.

Taking into account the chaotic waste management in the Mediterranean region and facing this new ecological crime, our Collective:

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S. Gharbi (✉)

Association de l'éducation environnementale pour les futures générations et Réseau Tunisie Verte, Tunis, Tunisie

Réseau Tunisie Verte, Tunis, Tunisie

N. Attia

Réseau Tunisie Verte, Tunis, Tunisie

1. Calls on the Tunisian authorities to return the containers to their country of origin, to identify the culprits, to strictly apply the law, and to stop any future attempt to import waste into our country in accordance with the Tunisian constitution and legislation and international conventions ratified by Tunisia. Indeed, marketing waste under the pretext of recycling is actually a common practice in several developed countries to avoid the disastrous costs and environmental impacts of their local treatment.
2. This act confirms the violation of a long list of international conventions ratified by Italy and Tunisia and the regional conventions to which Tunisia is a signatory. We mainly quote:

The Basel Convention and the Ban “Ban Amendment” which blocks any export of hazardous waste from an EU, OECD country to a developing or transition country. In this act, article 9 of the Basel Convention should be applied, which considers this transboundary movement of wastes to be “illegal traffic.”

The MARPOL Convention prohibits the shipment of hazardous wastes.

The Barcelona Convention on pollution resulting from the transboundary movements of hazardous wastes and their disposal: the Contracting Parties shall take all appropriate measures to prevent, abate, and to the fullest possible extent eliminate pollution of the environment which can be caused by transboundary movements and disposal of hazardous wastes and to reduce to a minimum, and if possible eliminate, such transboundary movements. Article 3 (a) and (b) relates to medical waste Y1, Y2, and Y3 and household waste Y46 waste collected, including sewage and sewage sludge as in the Annex I of the Convention.

The BAMAKO Convention was ratified by Tunisia in 1992 and entered into force in 1998: on the ban on importing hazardous wastes into Africa and on the control of transboundary movements and the management of hazardous wastes produced in Africa.

Bilateral Agreements with Italy and the Association Agreement between the European Union and its member states including Italy and Tunisia establish the rules of cooperation between the parties which aims to prevent the degradation of environment and improvement of its quality, protection of human health, and the rational use of natural resources with a view to ensuring sustainable development.

## **Waste Colonialism**

The Tunisian authorities received 70 containers of the waste at the Port of Sousse and an extra 200 containers including thousands of tons of waste. In total, there are 283 of containers of illegal waste. The Tunisian company at the origin of this import had concluded an agreement with an Italian company for the import of 120,000 tons of waste per year, at a cost of 48 euros per ton. The total amount of the contract is around 18 million dinars per year. The affair was discovered by the customs services in July 2020, but it was only after its media coverage that the government decided to take it up.

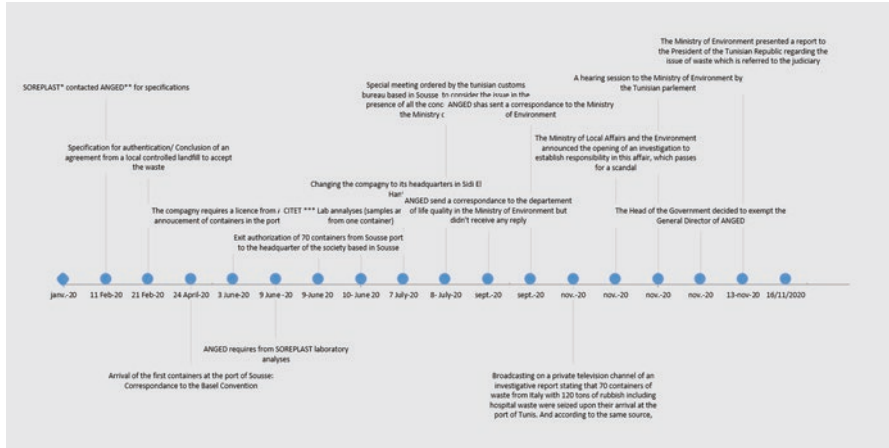


Fig. 1 The chronology and facts during the Italian-Tunisian case

The Ministry of Environment reiterated that it did not issue a license for the import of waste from abroad and announced the opening of an investigation into the issue. The Ministry notified the Italian authority of illegal trade activities and shipping the containers back.

According to environmental organizations, this export action violates European Union law, Tunisian law, as well as international treaties on the trade of waste – the Basel Convention, the Bamako Convention, and the Izmir Protocol of the Barcelona Convention.

This group of organizations has shown, in a brief report, how weaknesses in EU regulations have contributed to the export of this waste for disposal under the guise of recycling.

Réseau Tunisie Verte militated for the return of the waste to support Tunisian government. It was almost 2 years of nonstop work (Fig. 1).

### Tunisian Law on Waste

The import of waste is not authorized by the Tunisian law. The Tunisian law clearly regulates the field of waste disposal, under the constitution, international agreements ratified by Tunisia, and the legislative and regulatory texts enacted for this purpose, in particular the framework law No. 1996-41 of June 10, 1996, relating to the waste and monitoring of its elimination and removal.

Therefore, it is strictly prohibited to import hazardous waste into Tunisia.

The import of nonhazardous waste is also ruled by laws and regulations, mainly Law No. 41 of 1996 of June 10, 1996, on waste and disposal control.

This law represents a general framework which defines the methods and conditions for the disposal of all waste in Tunisia.

Under Article 45 of Law No. 96-41 of June 10, 1996, relating to waste and the control of its management and disposal, “if the waste has been imported or exported against the provisions of this law or of the special regulations referred to in the preceding article, relevant authorities shall order their keeper, their carrier or their producer to return them to the country of origin within a timeframe it determines.”

Law No. 95-63 of July 10, 1995, authorized the accession of the Republic of Tunisia to the Basel Convention on the control of transboundary movements of hazardous waste and their disposal.

If the offender does not comply, relevant authorities may take all necessary measures to ensure the return of this waste at the expense of the participants in the operation.

Moreover, Tunisia has a list of laws to regulate the waste, but the management is very weak.

## The Agreement Violations

- The shipment is registered under code Y46 which is not allowed if we consider Basel Convention.
- The PIC documents contained inaccurate info; therefore, the Tunisian authorities can credibly argue they were misled.
- R3 code is from Basel and the EU. It is for recycling and reclamation of organic materials other than solvents. It is distinguished from metal recycling, incineration, or waste to energy but should not be confined to composting.
- Italy’s shipments of municipal waste to Tunisia in 2020 shine a spotlight on persisting abuses in the global trade in plastic and other wastes. In particular, this scandal highlights the role of problematic EU waste code 19 12 12 in these illegal shipments. The waste was classified as “19 12 12,” which corresponds in the European waste catalogue to “wastes (including mixtures of materials) from mechanical treatment of wastes.” 19.12.12 is typically exported for “recovery” – as RDF in co-incineration. The fact that 19.12.12 exports are legal in Italy/Europe does not mean that they are unproblematic. These waste shipments may have breached Tunisian law. Code 19 in the EU refers to “special” waste, which apart from other industrial wastes, also includes waste from waste treatment sites.
- The use of code 19 12 12 appears to have introduced ambiguity about whether the waste exported was truly household or municipal waste. However, this EU waste code should not have been used for a waste shipment outside the EU: only the internationally agreed code for these wastes, listing Y46 under Annex II of the Basel Convention (household waste), should have been used. Because the EU has banned the export of all Basel Convention Annex II wastes, including household waste (Y46) to non-OECD countries, that ban should have been clearly imposed in this case (Puckett, 2021).
- The laboratory analysis is different from what was announced in the agreement and contains toxic elements

## **Flagrant Violation of International Agreements**

Tunisia is part of the Basel Convention, Bamako Convention, MARPOL Convention, and Izmir Protocols.

### ***The Basel Convention***

As stressed in the article 6 of Basel convention, the state of export shall notify or shall require the generator or exporter to notify, in writing, through the channel of the competent authority of the state of export, the competent authority of the States concerned of any proposed transboundary movement of hazardous wastes or other wastes.

Tunisia notified the secretariat of Basel Convention on October 23, 2020. Even in cases where they are not going to pursue criminal charges, Article 8 applies when things are not done according to the contract. In that case it is 90 days from the time the importing state informed of the case to the exporting country and the secretariat of the Convention. Therefore, they have 90 days to send it back to the state of export or agree on an alternate arrangement (Article 8 Duty to Re-import). The Basel Convention is considered as a loophole because the industry is taking advantages of the vagueness of the convention in terms of the unclear meanings of the text such as for the amendement on the exported plastic waste which must be “exclusively pure” and the words exclusively can has different interpretation meanings (Merelle, [2021](#)).

### ***The Bamako Convention and Izmir Protocols***

The competent authority of Italy should have known that they had an import ban in place for these Y46 wastes (or Bamako, Izmir listing for same) that the export is illegal traffic and is illegal on the part of the exporter.

In such cases Italy needs to take the waste back within 30 days after they have been informed of the problem by Tunisia (or other time that the two countries might agree) (Article 9 Illegal Traffic).

### ***The Human Rights***

The illegal entry of such waste into Tunisian territory is a violation of constitutionally protected rights to health and the environment.

The presence of waste is also a violation of the integrity of Tunisians and of their right to live in dignified and satisfactory sanitary conditions as enshrined in the international conventions ratified by both Italy and Tunisia.

The current situation causes great fear to the inhabitants of the affected region (namely, the neighbors of the port of the city of Sousse) who are beginning to feel the impact of such a threatening presence on their health and that of their children.

Particularly fragile people fear the presence of waste, and we know that environmental problems threaten the rights of the most fragile population in particular, namely, sick people, people in precarious situations, and in particular port workers who are close to thousands of tons of waste.

The Tunisians are invaded by thousands of tons of waste illegally entered the Tunisian territory; it is they who are confronted with the dangers and risks caused by such a scourge.

## Reactions of National and International Civil Society

Réseau Tunisie Vert consider the Italy case as a criminal act. Illegal shipments due to the fault of the exporter, as in the case of the Italian waste exported to Tunisia, must be taken back by the exporting state within 30 days from the moment when the Exporting State has been notified of the illegal shipment, or otherwise disposed of in an environmentally sound manner under the direction of the Exporting State. Unfortunately, it has took almost 2 years to reshipe 212 containers. Through our NGO Réseau Tunisie Verte, we contacted the special rapporteur of human rights which reacted very well to our request and we provided to his secretariat with the necessary details about the illegal shipment. The special rapporteur visited Italy in their mandate and reported the issue of the waste with recommendations as mentioned in the document (UNDOC, [2022](#)):

Italy was informed of the illegal shipment by the Tunisian government on December 9, 2020. They are therefore almost two months late to act in accordance with the law. This is unacceptable. We call on the European Commission to take the necessary measures to ensure compliance. (Jim Puckett of the Basel Action Network (BAN), quoted by the same source) (Puckett, [2021](#)).

Italy should take responsibility for preventing and managing its own municipal waste, rather than exporting its problems to Tunisia. Each additional day of delayed repatriation adds to this injustice. (Sirine Rached of the Global Alliance for Alternative Incinerators (GAIA)) (Rached et al., [2021](#)).

This type of trade is immoral and destructive to the environment; it is not acceptable to import waste from Italy to Tunisia for landfill. Landfilling waste can generate toxic leaching and contribute to the degradation of human health and the environment. (Mohammed Tazrout, campaigner for Greenpeace Middle East and North Africa) (Mohamed, [2021](#)).

Pierre Condamine, Head of Waste Policy at Zero Waste Europe (ZWE, [2021](#)) went so far as to say that:

This is another stark example of a weakness in EU law and enforcement causing ethical and environmental harm to others.

## Media Reactivities to the Italy Case

Réseau Tunisie Vert didn't stop making press releases supported by many journalists and specifically the National Agency of Press. Radio and TV channels national and private have shown their willingness to battle Italy waste. Additional to national mass media, the international journalism reacted making the Italy case as a scandal (Chabane, 2015; Common, 2021; Orsi et al., 2021; Bongarra, 2022; Gorman, 2022).

## Arguments of the Health Impacts of Landfills in Tunisia

Tunisia is facing a huge problem to manage its own wastes and doesn't have the appropriate management to treat hazard wastes. Although there is a big lack of studies to relate the landfills that causes many diseases such cancers, an investigation was done on the subject and related the realities (Chabane, 2015).

## Updates

After all the series of activities implemented by both Tunisian government and Réseau Tunisie Vert and all its related international and regional contacts, Tunisia succeed to reship 212 containers on February 18, 2022. Unfortunately, 70 containers were affected when a fire broke out in December 2021 in the warehouse of Tunisian company Soreplast where the Italian waste subject to customs control was stored. An investigation is initiated to determine the circumstances of the fire. Lesson learned from this case which highlighted the growth of the global waste trade despite the strict regulations at the international and EU level which aimed at preventing rich countries from dumping their hazardous wastes in poor countries.

## Recommendations

The Italian-Tunisian municipal waste scandal has already had far-reaching consequences in Tunisia, with an ongoing court case against whom facilitated the illegal entrance of waste. Nevertheless, countries have to comply with their obligations under the Basel Convention on wastes. Meanwhile, this scandal has revealed the problematic effect of European Waste Catalogue code 19 12 12 in creating confusion about the nature of wastes being traded and facilitating breaches of EU and international law. Other recommendations were made to EU countries as: provide reparations for any harm to the environment or human health or other damages resulting from the wastes and take administrative/legislative actions to ensure that

waste exports to countries where such imports are banned are never considered or undertaken again (Puckett, 2021).

The dramatic case of illegal transboundary movement of waste can continue because they are other breaches which can facilitate the export. We list one of the main important points that increase the waste colonialism as the customs codes. This latter isn't transparent regarding the waste and the nature of waste; we need urgently the international organization of customs to review deeply their codes and delete totally those harming the countries particularly the developing countries which don't have the capacities to manage their proper waste.

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