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Biodiversity is the combination of all living things in an environment and how they interact. It is the existence of many different kinds of plants and animals in an environment. Biodiversity can be referred to as biological diversity in an environment as indicated by numbers of different species or plants and animals. The 1992 united nations earth summit defined biological diversity as the variability among living organisms from all sources including inter alia, terrestrial, marine, and other aquatic ecosystems, and the ecological complexes of which they are part; this includes diversity within species, between species and of ecosystems. Here, the fishes and plants are living things in the Doro community and chad republic as the environment is an example of biodiversity.

LEGAL ISSUES IN THIS CASE

1. Whether the chad republic and the Doro community in Nigeria adhered to AIA procedure
2. Whether the geothermal project and the MXZ 19 caused adverse effects on the conservation and sustainable use of the biological diversity in the Doro Community
3. Whether the chad republic should be penalized and if yes how

THE RULES OF LAW APPLICABLE IN THIS CASE

The Cartagena protocol is a supplementary agreement to the Convention on biological diversity. It aims to ensure the safe handling, transport and use of living modified organisms (LMOs) resulting from modern biotechnology that may have adverse effects on biological diversity, taking into account risks to human health as set out as its objective in Article 1. The primary governance tool employed the Cartagena protocol is the Advanced Informed Agreement as set out in article 7. The AIA is designed to ensure that before an LMO is imported into a country for he first time into the environment, the party of import:

1. is notified about the proposed import
2. receives opportunity to assess the risks associated with that LMO and to decide whether or not to allow the import.

Also, Articles 8, 10 and 12 elaborate rules on notification by party of export/exporter to the party of import, the procedure for the communication of consent or non-consent, as well as the procedure for review of decisions, which shall apply prior to the first intentional transboundary movement of living modified organisms.

Under Article 33, parties are to monitor the implementation of its obligations under the protocol and present reports on measures that they have taken to implement it. Under Article 27 of the Convention on Biological Diversity, where a dispute arises regarding the interpretation or application of the convention, the parties concerned shall seek solution by negotiation. If they cannot reach agreement by negotiation, they may jointly seek the good offices of or request mediation by, a third party. Failing these they may accept compulsory arbitration or submission of the dispute tot the International Court of Justice, failing which the dispute will be submitted to conciliation unless the parties otherwise agree.

THE APPLICATION OF THE RULES OF LAW IN THIS CASE

After the proposal of the geothermal project by the minister of mines and power it was approved by the security council of the chad republic without conforming to the AIA procedure. The minister or any other appropriate authority ought to have notified the Nigerian Government about the proposed import and ensured that the Nigerian Government receives full information about the geothermal project and would have given the Nigerian government the opportunity to assess the risks associated with the geothermal project and to decide whether or not to allow the import. This also applies to the 400 tons of grains sent by the Chadian authorities which were modified to require very little water to grow.

It is obvious that the geothermal project and the MXZ 19 caused adverse effects in the Doro Community. The geothermal project caused fishes to die and it affected the irrigation activities, this deprived the members of Doro community the main source of their livelihood. Also, the MXZ 19 caused the soil to become virulent thus making the natural grains unable to survive on the same soil where the MXZ 19 were planted and it also caused benefiting insects to go away. In essence, YES, the geothermal projects and MXZ 19 caused adverse effects in the Doro community.

The chad republic should be penalized for not following the AIA procedure. The Doro community should report their case to NESREA or the Ministry of Environment. The Nigerian Government through NESREA can agree to negotiate the term of settlement which may be in monetary terms or an agreement for the chad republic to supply natural grains for a certain agreed period or other terms can be agreed upon as deemed fit by both parties. If this fails, both parties can seek the help of a third party for mediation and if that fails, both parties can seek redress at the International Court of Justice, if this also fails, both parties can proceed to conciliation.

CONCLUSION

It is necessary to eliminate all forms of threat to biodiversity. From this it is evident that the balance of the ecosystem was distorted causing the death of the fishes and the destruction of the soil which brought a threat to the conservation and sustainable use of the biological diversity. This is what the Convention on Biological Diversity and the Cartagena Protocol stands to avoid. I believe that both parties will learn from their mistake and will be more knowledgeable about the importance of biodiversity.