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Level: 400 level

Lecturer: Mr Alex

To: Doro Gowon Community

From: Okeke Samuel Esq.

Subject: Legal options in International law to provide relief to the Doro Gowon Community and transportation of living modified Organisms and their effects.

Date: 29th April, 2020

ISSUES FOR DETERMINATION

1. Whether there’s a transfer of living modified organisms from Chad to Doro Gowon community,
2. Whether there’s a legal framework in law that regulates the transfer of modified grains/organisms,
3. Whether there’s a procedure for the export and transfer of the living modified grains/ organisms,
4. Whether the Government of Chad can rely on the principle of Sovereignty to be exonerated of liability arising from the damage caused from the geothermal project in the Doro Gowon Community,
5. Which is the appropriate authority to handle this matter.

Issue 1

*Whether there’s a transfer of living modified organisms from Chad to Doro Gowon community.* This writer answers in the affirmative. In a bid to ameliorate the condition of Doro Gowon community, on the 20th of march, based on the facts of this case, it was seen that the Chadian authorities stopped activities at the plant, and sent 400 tons of grains, inclusive of millets, sorghum and maize to the farmers for planting. However these particular grains have been modified to require little amount of water to grow (MXZ 19). The Chadians are guilty of the transfer of living modified organisms and have failed to inform/notify the Doro Gowon community that they were bringing in these modified organisms into their community. *Section 7* requires that the state of export should inform the state of import to enable them know if they accept the import against matters like this arising.

Issue 2

Whether there’s a legal framework in law that regulates the transfer of modified organisms. This writer answers in the affirmative and proceeds to show the legal framework that regulates the transfer of modified organisms in details. The Cartagena protocol is a supplementary agreement to the CBD. It was adopted on the 29th January, 2000 and entered into force on the 11th September, 2003. This protocol aims to ensure the safe handling, transport and use of living modified organisms (LMO’) resulting from modern biotechnology that may have adverse effects on biological diversity, taking also into account risks of human health. It adopts the precautionary principle in its preamble and in its articles 1 and 11(8), to the effect that lack of scientific certainty due to insufficient relevant scientific information and knowledge regarding the extent of the potential adverse effects of a living modified organism on the conservation and sustainable use of biological diversity, also taking into account risks of human health, shall not prevent a party from taking a decision with regard to the import of living modified organisms in order to avoid or minimize such potential adverse effects.

Issue 3

Whether there’s a procedure for the export and transfer of the living modified grains/ organisms. The primary governance tool employed by the Cartagena Protocol is the AVANCED INFORMED AGREEMENT (AIA) as set out in Article 7. The AIA procedure is designed to ensure that before an LMO is imported into a country for the first time for international introduction into the environment, the party of import: (a) is notified about the proposed import; (b) Receives full information about the LMO and its intended us; and (c) has an opportunity to access the risks associated with that LMO and to decide whether or not to allow the import. In addition, the provisions of 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. Article 23 promotes public awareness, education and participation regarding the safe transfer, handling and use of living modified organisms in relation to the conservation and sustainable use of biological diversity, taking also into account risks of human health. The fact that the Chad republic didn’t notify the Doro Gowon community about the modified grain was a violation of Article 7 of the Cartagena Protocol and this is where the whole matter eludes from.

Issue 4

Whether the Government of Chad can rely on the principle of Sovereignty to be exonerated of liability arising from the damage caused from the geothermal project in the Doro Gowon Community. the Government of Chad would be held liable for the damage caused from the geothermal project in the Doro Gowon community due to their failure to inform the Gowon community of the all the living modified organisms they transferred in. the principle of Sovereignty wouldn’t apply because Chad republic is guilty of a breach of duty to inform/notify the Doro community of all the organisms being transferred into their community and therefore can’t be exonerated from liability of the damage caused upon the people of Doro Gowon community.

Issue 5

Which is the appropriate authority to handle this matter. This matter is to be handled under the International Court of Justice (ICJ) where a petition should be made to the federal government through NESREA or minister for environment after which they forward it to the ICJ.

In light of the above, this writer is of the opinion that if the Doro Gowon community had carried out an Environmental Impact Assessment, they would have found out all the consequences being suffered from the negligence of Chad republic not informing them of the type of grains being transferred. Furthermore, Chad republic would be held liable for the damage suffered by the Doro Gowon community and cannot be exonerated on the grounds of Sovereignty.

Thank you.