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**QUESTION**.

On 22 December 2019, at the Security Council meeting of Chad Republic, the minister of Mines and Power Submitted a geothermal project proposal before the council. The proposal showed the capacity of a geothermal project to put an end to the epileptic power supply problem suffered in the southern region of Chad for a very long time, also with the capacity of supplying electricity to several border communities in her sister Country Nigeria. In excitement, the council applauded the minister for a job well done and approved the proposal.

On the 14th of February 2020, the plant got commissioned and the Chadians, as well as neighbouring Doro Gowon community on the Nigerian side were glad. In fact, for the first time, those communities experienced an uninterrupted power supply for about two weeks. In the following weeks, fishing activities around the Lake Chad basin, particularly on the Nigerian side declined drastically. Irrigation activities also suffered the more, due to climate change impacts, also as a result of operations of the geothermal plant. Members of the Doro Gowon community decry the situation, as their main source of livelihood is threatened.

On hearing of these developments, the ‘Green Watch Society’, a coalition of environmentalist NGOs led by the ABUAD clean and green club kept mounting pressure on the Chadian authorities to put an end to the geothermal operations, and also restore the Doro Gowon community to a state in which they would have been in terms of fishing and farming activities had the project not been carried out.

In a bid to ameliorate the condition of Doro Gowon community, on the 20th of March 2019, 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. These particular grains (MXZ 19) have been modified to require very little watering to grow. Sometime in mid-April, the farmers noticed that the MXZ 19 grain sprouted so fast and well and were soon to be ready for harvesting. However, the natural grains they were used to planting which they planted alongside the MXZ19 did not do so well. Most of them died. Also, the ground beetles, ladybugs, and praying mantis which acted as natural pesticides were no more. On the 22nd of April, during one of the monitoring and implementation trips of the Abuad Clean and Green Club to Doro Gowon Community, samples of the MXZ19 grains were taken along with the soil where the grains were planted for analysis. The analysis revealed that due to the modifications on MXZ19, the soil had become virulent, thus making the natural grains unable to survive on the same soil where the MXZ19s were planted, also driving away those beneficial insects. The Findings of the analysis were sent to the community head, who went on to communicate the situation to the association of farmers. For decades, Doro Gowon has been reputed for their healthy grains and arable land, but as it stands now, they may never regain its glory. They are angry and have vowed to make the Chadian authorities pay for this. The Chadian authorities, on the other hand, have expressed their displeasure at the ingratitude shown by Doro Gowon community and have called on the Nigerian Ambassador to get his people in order, after all, they have the sovereign right to address their electricity issues, and were only trying to help.

You have been approached by the Doro Gowon Community to explore all available legal options in international law to make the Chadian government pay for their actions. Write comprehensive legal advice, addressing the issues at hand.

**LEGAL ISSUES FOR DETERMINATION**

1. Whether there was a failure on the part of the Chadian authorities to conduct an EIA on the Doro community before such projects were carried out and if they are liable for such subsequent damages.
2. Whether the actions of the Chadian authorities and the use of living modified organism [LMO] which caused harm to the environment and biodiversity goes against the Cartagena protocol on Biosafety to the convention on Biological Diversity(the “Cartagena protocol”).
3. Whether the Chadian authorities are to be held liable or not.
4. Are there available legal remedies for the Doro Gowon community**.**

**RULE OF LAW AND APPLICATION.**

The question whether the Chadian authorities failed in carrying out an **Environmental impact assessment (EIA)** before such projects commenced and if they will be liable for the damages which have occurred. This question is answered in the Affirmative.

The actions of the Chadian government has grossly affected the biological diversity of the Doro community and this because an EIA was not first carried out.

Biological Diversity is defined as the variability of life in all its forms, levels and combinations.

Biodiversity simply refers to the different forms of plants, animals and biological forms of life that make up the ecosystem.

The convention on Biological Diversity (CBD), The CBD is the principal international agreement that seeks to protect and conserve biodiversity. This clearly slated in **Article 1** which states the conservation of biodiversity, the sustainable use of its components and the fair and equitable sharing of the benefits arising out of the utilization of genetic resources.

This convention that is the CBD makes provisions for an **EIA (Environmental impact assessment)** to be conducted before commencement of and projects ,this provisions are slated under [**Article 14 of The convention on Biological diversity].**

**[Article 14 of the CBD]** states that on environmental impact assessment provide that each party is to introduce appropriate environmental impact assessment procedures for proposed projects that are likely to have significant adverse effects on biological diversity with a view to avoiding or minimizing such effects and, where appropriate, allow, for public participation in such procedures. In addition, parties are to introduce arrangements that ensure that the environmental consequences of their plans and policies that are likely to have significant adverse impacts on biological diversity are duly taken into account ,and notify other states where activities within their jurisdiction will affect the biodiversity in another jurisdiction, amongst other things.

From the foregoing it is evident that before such projects commenced on Doro community and Environmental impact assessment test need to have been carried out on the Doro community, in other to ascertain the impact of such structure or project in this case the (geothermal project) and to examine it impact on the environment and biodiversity. The actions of the Chadian authorities to commence and establish the project without conducting an EIA was wrong and they are liable for such damages. The EIA is against the undertaking of, or embarking on projects, which may significantly affect the environment without prior consideration of their environmental effects.

The second issue which is Whether the actions of the Chadian authorities and the use of living modified organism [LMO] which caused harm to the environment and biodiversity goes against the Cartagena protocol on Biosafety to the convention on Biological Diversity(the “Cartagena protocol”).This issue is answered in the affirmative.

The Cartagena protocol is a supplementary agreement to the CBD. 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 the risk to human health. This has been into force since the 11th September 2003.

**Article 1** sets out the objective of the Cartagena protocol, which is to contribute to ensuring an adequate level of protection in the field of the safe transfer, handling and use of living modified organisms (LMO) resulting from modern biotechnology that may have adverse effects on the conservation and sustainable use of biological diversity ,while taking into account risks to human health, and specifically focusing on the trans-boundary movements. primary governance tool employed by the Cartagena protocol is the **Advanced 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 use and (c) Has an opportunity to assess the risks associated with that LMO and to decide whether or not to allow import.

**[Article 23]** promotes public awareness, education and participation regarding safe transfer of LMO.

By the express provisions of the Cartagena convention, it is evident that the Chadian authorities have contravened the provisions of convention, [**Article 1]** sets out the objective of the Cartagena protocol, which is to contribute to ensuring an adequate level of protection in the field of the safe transfer, handling and use of living modified organisms(LMO) resulting from modern biotechnology that may have adverse effects on the conservation and sustainable use of biological diversity ,while taking into account risks to human health.

The use of the LMO by the Chadian government , that is the modified grains that can survive with little water has caused severe damage to the Doro community and biodiversity of that region.

It is important to note that [**Article 7 of the Cartagena]** provides for an AIA. 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 use and (c) Has an opportunity to assess the risks associated with that LMO and to decide whether or not to allow import.

The Chadian authorities did not follow the AIA procedures which is entrenched in Article 7 of the Cartagena convention. They did not notify the Doro community of the import of LMO to help grow plants, The Doro community had no information on the LMO, neither were the given access to the risks associated with that LMO.

The issue whether the Chadian government will be liable is established and this is answered in the affirmative, The Chadian government are solely responsible to the damages caused to Doro community and ecosystem. The LMO grains introduced by the Chadian authority was against the Cartagena convention and [**section 14 of CBD]** which provides for EIA. The Chadian governments actions have contravened all this international conventions on biodiversity and therefore are to be held liable .

The legal remedies available to the Doro community include the community can bring the matter to an Arbitral tribunal if such negotiations fail, I advice that the community to inform the ministry of environment to take an action against the Chadian government at the ICJ international court of justice.