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Introduction

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INTRODUCTION OF CUBAN ENVIRONMENTAL LAW AND POLICY

*Daimar Cánovas González**

The earliest history of Cuban Environmental Law and Policy can be traced to the early twentieth century, when it issued rules designed to create protected areas mainly for recreational purposes and to regulate certain economically important natural resources such as forests or water.

A transcendental turn is the revolutionary triumph of 1959, which incorporates among its main objectives the protection of the environment. The Cuban Constitution of 1976 took up the general duty of State and all citizens to protect the environment, in article 27. Constitutional reform of 1992 introduced the concept of sustainable development, after the summit in Rio de Janeiro.

The first environmental act of Cuba was the Law of Environmental Protection and rational use of natural resources, number 33, promulgated in January 10, 1981. It was one of the first environmental laws in Latin America and established the National Commission for Protection of Environment and rational use of natural resources as coordinating body for environmental management in the country.

In 1994 was created the Ministry of Science, Technology and Environment, and in 1997 was approved the Law 81, entitled *The Law of the Environment*, in 11 July of that year. This regulation recognizes in article 4 the basic principles of environmental protection, among which includes the right to healthy environment, environmental information, participation and access to justice, the principle of prevention and action precautionary, among others.

It also provides the institutional framework and environmental management instruments: environmental impact assessment (EIA), environmental licensing, land use, planning, economic mechanisms, environmental education, environmental inspection and the different systems of criminal, civil and administrative responsibility.

This law also sets out general principles relating to specific areas of environmental protection, which then develop in the supporting legislation. His 163 articles embrace air, water, waste, noise, toxic substances, historic preservation, biological diversity, national parks, forests, wildlife refuges, coastal zone management, etc.

It's necessary to present some of this most recently additional legislation. Resolution 132, adopted in August last, begin by listing classes of projects that will in all cases require environmental impact

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assessment, in contrast to the system in other countries, in which the need for an assessment on a particular activity is decided on case-by-case basis. Cuba has sorted out this conflict of goals and options with a system of consultants-cum-safeguards. Environmental impact study is conducted by a consultant hired by the applicant of the environmental permit, seeking greater objectivity.

Another law with great impact is the Decree Law 212, approved in 2000, about coastal zone management. The Law prescribes two zones: a "coastal zone" extending seaward to the continental shelf (between 100 and 200 meters depth) and from twenty to forty meters landward from a base, depending on the type of costs, and a second "protection zone" extending another twenty to forty meters inland. The coastal zone is declared to be open, public and free for public use (article 12). Article 15 establishes a general rule that "the coastal zone will remain presumptively unoccupied" by permanent structures, excluding plants that can only be located in the coastal zone: ports, piers, national defense works.

In 2006 the Ministry of Science, Technology and Environment issued Resolution 40, which approved the National Environment Strategy 2007-2010. This Strategy replaced the drafted in 1997, and adapted Cuban environmental policy to the changes globally. Resolution makes a diagnosis of major environmental problems in Cuba, sets goals and objectives to be met by 2010.

Cuba is one of the most biodiverse countries in the Caribbean, hence the importance of proper protection. In 1993 Cuba was among the first states to sign the Convention on Biological Diversity. Resolution 111/1996 applies the principles of the Convention into domestic law. Regulation establishes that "Any body, agency or state entity, natural person or legal entity, domestic or foreign, that seeks access to biological resources of the country's biodiversity or trade with them will require the prior express authorization" of environmental authority. Also introduce a number of permits or licenses for import or export of species and to rid to the environment of genetically modified organism.