

LAW 81 OF THE ENVIRONMENT (Cuba)

Editor's Note: (Selected provisions relevant to flora and fauna have been extracted from the law)

NATIONAL ASSEMBLY OF THE POPULAR POWER

RICARDO ALARCON DE QUESADA, President of the National Assembly of the Popular Power of the Republic of Cuba.

LET IT BE KNOWN: That the National Assembly of the Popular Power, in session on June 11, 1997, corresponding to the IX Regular Period of Sessions of the Fourth Legislature, has approved the following:

Whereas: Cuba gives special attention to the protection of the environment within the context of a development policy consecrated in the work of the Revolution begun in 1959, an expression of which is found in **Article 27** of the Constitution of the Republic which declares that:

"The State protects the nation's environment and natural resources and recognizes their close relationship with sustainable economic and social development to make human life more rational and to ensure the survival, well being and security of present and future generations. It is the responsibility of proper governmental agencies to apply this policy. It is the duty of the citizens to contribute to the protection of the water, atmosphere, and the conservation of the soil, wild flora and fauna and all the rich potential of nature."

Whereas: Environmental actions in Cuba are sustained by the conceptions of Jose Martí regarding the relationship between human beings and nature and the rich traditions linking our history with a culture of nature.

Whereas: It is necessary to consecrate as a basic right of society and its citizens, the right to a sound environment, and to the enjoyment of a healthy and productive life in harmony with nature, inasmuch as human beings constitute the essential objective of sustainable development.

Whereas: Environmental protection is a factor relevant to the objectives of national defense and a guarantee of our sovereignty, inasmuch as it helps to assure the availability of indispensable natural resources to meet the basic needs of the population and to facilitate the existence of temporary human settlements for large nuclei of the population, which could become a relevant factor in exceptional circumstances.

Whereas: Law 33 of January 10, 1981, Environmental Protection and the Rational Use of Natural Resources, represents an early and important normative expression of the principles of Cuban environmental policy which established the basis for the development of a national legal framework in this sphere. Notwithstanding which, the current conditions of economic and social development demand a legal framework more in line with the current situation. Law 33 has been

surpassed in large part by the recent advances in environmental matters, both in the national and international realm. Accordingly, the aforementioned law must be replaced by a legal instrument that will adequately reflect the requirements of environmental protection and the attainment of sustainable development.

Whereas: It is necessary to update the legal principles, objectives and basic concepts of Cuba's environmental policy, institutional framework and the tools for their implementation, the powers, functions and duties of the state agencies and bodies and, in general, the rights and obligations of natural and legal persons.

Therefore: The National Assembly of the Popular Power, in exercise of the powers it is conferred by **Article 75**, paragraph b) of the Constitution of the Republic, adopts the following:

TITLE SIX

SPECIFIC SPHERES OF ENVIRONMENTAL PROTECTION

CHAPTER I

GENERAL PROVISIONS

Article 81. The management of natural resources will be carried out in conformity with the following provisions:

- a) their rational use will be assured, for which their quantitative and qualitative continuity will be preserved, recycling and recovery systems will be developed, and the ecosystems to which they belong safeguarded;
- b) the interdependence of natural resources and other environmental elements, and of ecosystems, will be taken into account to avoid, wherever possible, unnecessary or prejudicial interference among them;
- c) when a resource is susceptible of having diverse uses, these will be subject to the priorities and forms of coordination and compatibility that the responsible agencies and bodies first determine. In cases of a discrepancy, the Ministry of Science, Technology and Environment will be consulted, in accordance with the powers and responsibilities that this Law confers on it;
- d) in determining priorities for the use of the various categories of natural resources, the requirements for environmental protection, the necessity of insuring their sustainability, and the

environmental, economic, and social costs and benefits, will be taken into account;

e) the national and local authorities, in planning the management of natural resources, will foster their balance and the integration of principles of environmental protection with the requirements of economic and social development.

Article 82. Without prejudice to the provisions of the preceding Article, in the exploitation of nonrenewable natural resources, investments designed to satisfy the needs of future generations will be taken into account.

Article 83. The Ministry of Science, Technology and Environment, in conjunction with responsible agencies and bodies, will issue, within the framework established by this Law, special regulations for the environmental protection of mountainous, coastal, karst formation, and wetland ecosystems which, given their ecological fragility, will require special attention.

CHAPTER II

PROTECTION AND SUSTAINABLE USE OF BIOLOGICAL DIVERSITY

Article 84. It is the responsibility of all the state agencies and organizations, and other natural and legal persons, to adopt in the spheres of their respective responsibilities, the actions and measures necessary to insure the conservation of the nation's biological diversity and the sustainable use of its components.

Article 85. Endemic, threatened, or endangered species, or those in the process of extinction, those that have a special connotation, and specimens representative of different types of ecosystems, as well as their genetic resources, will be the object of special protection by the State, which includes the establishment of rigorous mechanisms of regulation, control, and management to guarantee their conservation and rational use.

Article 86. It is the responsibility of the Ministry of Science, Technology and Environment, in coordination with the Ministry of Agriculture and other responsible agencies and bodies, to issue provisions related to the importation and introduction into the environment of new species or species submitted to special regulations, to which ends the following principles will be taken into account:

a) the possible reactions of the species in the environment in which they will be introduced;

b) the possible reactions of the recipient environment and of native species to the species that will be introduced;

c) the risk that potentially dangerous genotypes may arise;

- d) the possible introduction of exotic and epizootic diseases that may affect plants or animals;
- e) the risk to human health;
- f) other principles of special interest for the protection of the environment.

Article 87. The Ministry of Science, Technology and Environment, in coordination with the Ministry of Agriculture and other competent agencies and bodies, will establish regulations that condition, restrict, or prohibit the exportation of species of animals, plants, or microorganisms in the following cases:

- a) species subject to special regulations within the framework of international agreements to which our country subscribes;
- b) species whose exportation may affect the conservation of national biological diversity;
- c) species with respect to which there is a need to insure the just and equitable participation of the Cuban State in the benefits that may be derived from the use of its genetic resources.

Article 88. The Ministry of Science, Technology, and Environment, in coordination with other responsible agencies and bodies, will direct actions intended to:

- a) identify the components of the national biological diversity and its prospective use;
- b) accomplish the long-term monitoring of the identified components of biological diversity, paying special attention to those which require the adoption of urgent conservation measures and those which offer the greatest potential for use;
- c) identify the processes and categories of activities that have or that probably have important harmful effects on the conservation and use of biological diversity and to proceed, through sampling and other techniques, to track these effects;
- d) organize and keep updated data derived from the activities stated in the preceding paragraphs;
- e) adopt in situ and ex situ conservation measures;

f) establish directives for the selection, establishment, and planning of protected areas or other areas where special measures must be taken to conserve biological diversity;

g) regulate the administration of important biological resources for the conservation of biological diversity, whether it is within or outside of the protected areas in order to insure their conservation and sustainable use;

h) promote the special protection of fragile ecosystems and natural habitats or those with high genetic diversity; to allow the viable maintenance of species in natural surroundings and the evolutionary processes of the species and genetic resources;

i) increase the role of zones adjacent to the protected areas in the protection of biological diversity;

j) list threatened or endangered species and promote their recovery;

k) promote the economic evaluation of biological diversity;

l) regulate and control the risks derived from the use and release of living organisms altered by biotechnology or other substances or products that may affect the conservation and sustainable use of biological diversity or may generate risks to human, animal, or plant health;

m) propose provisions to guarantee an adequate and effective protection of intellectual property rights in this sphere, in accordance with national interests;

n) establish or propose, as appropriate, the strategies and regulations necessary to guarantee fair and equitable participation in the benefits derived from the use of genetic resources;

o) control or impede, as appropriate, the introduction or removal of species that may threaten or modify ecosystems, habitats, or other species;

p) establish and regulate the necessary conditions to harmonize current uses with the conservation of biological diversity and the adequate management of its components;

q) adopt or propose the adoption, as appropriate, of economic and social incentives for the conservation and sustainable use of biological diversity.

CHAPTER III

NATIONAL SYSTEM OF PROTECTED AREAS

Article 89. The Ministry of Science, Technology and Environment is in charge of directing and controlling activities related to the National System of Protected Areas, its integrated environmental management at the national level in coordination with other responsible agencies and bodies, of its technical and methodological management, of controlling compliance with the specific objectives for which the protected areas were established, and of the administration of those protected areas which the law designates.

Article 90. The National System of Protected Areas has as its basic objectives:

- a) to maintain representative samples of the biogeographical regions and of the most important scenic beauties of the country to insure the continuity of evolutionary processes, including among these areas, the sites with importance for the migration of species;
- b) to conserve *in situ* the flora and fauna and biological diversity in general, protecting it from the acts or omissions or vectors that may harm it;
- c) to assure that local production adopts reasonable and dynamic methods for sustainable yield with the aim of raising the socioeconomic level of local populations by putting in practice actions that favor integrated rural development, paying special attention to the conservation and rational use of fragile ecosystems such as mountains, wetlands, mangrove areas, karst formations, arid and semiarid zones and island groups;
- d) to protect, restore, and manage the coastal and marine resources and environment for their conservation and sustainable use;
- e) to maintain and manage biotic resources, whether terrestrial or aquatic, for long term availability of various goods and services for the population, always considering the vital function that they play in the balance of ecosystems and taking into consideration the national and international regulations regarding these resources;
- f) to conserve and restore the soils and control erosion, sedimentation, salinization, acidification, and other processes of degradation;
- g) to conserve and manage water resources, taking into account the integrated management of watersheds;

h) to manage and improve forestry resources so they can accomplish their role in regulating the environment and to provide for stable production and reproduction of forest products;

i) to conserve historic and cultural values that are linked to natural surroundings;

j) to conserve and rehabilitate natural and cultural landscapes;

k) to foster environmental education, particularly with local populations, promoting active forms of participation;

l) to allow recreation and development of tourism in a manner compatible with the management of the area in question;

m) to serve as a natural laboratory and a logical framework for the conduct of research.

Article 91. Natural and legal persons who may have under their administration protected areas are required to comply and insure compliance by others with the provisions of this Law and with other environmental provisions in force, and with those issued by the Ministry of Science Technology and Environment and to carry out the activities approved by the management plans for each specific area.

CHAPTER IV

WATERS AND AQUATIC ECOSYSTEMS

SECOND SECTION

Terrestrial Waters

Article 94. For the purposes of the present Law, terrestrial waters are understood to include both surface water and groundwater.

Article 95. Waste waters from economic and social activities, before being released into the environment, must receive the appropriate treatment so that they will not pollute reservoirs or terrestrial or maritime bodies of water.

Article 96. There shall be obligatory establishment of boundaries for buffer zones for the sources of terrestrial water supplies, hydraulic installations or projects, and natural and artificial channels, in order to prevent the danger of pollution, silting, or other forms of degradation.

Article 97. The National Institute of Hydraulic Resources, in coordination with other responsible agencies and bodies, is in charge of the control and development of actions directed at management of terrestrial waters, with the exception of mineral-medicinal waters.

Article 98. All natural or legal persons that take actions related to groundwater will comply with the evaluations and rules issued by the National Institute of Hydraulic Resources in order to ensure the rational use and avoid the depletion or degradation of these waters.

THIRD SECTION

Marine Waters And Resources

Article 99. Protection of maritime waters includes protection of interior maritime waters, the territorial sea, the contiguous zone, and the economic zone, as defined by law, and the marine resources existing in them.

Article 100. The Ministry of the Fishing Industry, in coordination with the Ministry of Science, Technology and Environment and other responsible agencies and bodies, will regulate the use and sustainable management of the fishery resources in the marine environment.

Article 101. The Ministry of the Fishing Industry and the National Institute of Hydraulic Resources, in coordination with the appropriate agencies and bodies, will propose and coordinate the proper measures for mitigating and restoring the prejudicial effects caused to the functional relationship of aquatic, terrestrial, and marine ecosystems.

Article 102. The Ministry of Transportation will establish regulations assuring that transportation and civil navigation activities in marine waters and port activities occur without damaging marine and coastal resources and port facilities.

Article 103. The agencies, bodies and state entities and the natural or legal persons that perform activities directed at the exploration and exploitation of the seabed and its resources, will assure that such activity occurs without causing damage to the environment and, in particular, to marine ecosystems.

Article 104. All disposal of waste material in the marine environment will require previous authorization from the Ministry of Science, Technology and Environment, which will control such disposals, in coordination with the responsible governmental agencies and bodies.

Article 105. The Ministry of Agriculture, in coordination with the Ministry of Science, Technology and Environment, will regulate the management of mangrove areas and other vegetation on keys, channels, coves, bays, inlets, and coastal zones, along the shoreline, at river mouths and other areas that may serve as a refuge for fisheries resources, other marine resources, and for the protection of other natural resources.

CHAPTER V

TERRESTRIAL ECOSYSTEMS

THIRD SECTION

Forest Patrimony

Article 112. The Forest Patrimony is comprised of all natural and artificial forests, lands designated for this use, deforested areas supporting forestry activity, as well as forest tree species that occur in isolation or in groups regardless of their location or ownership.

Article 113. The Ministry of Agriculture categorizes the forests on the basis of their function, role in society, and geographic location, into the following types:

- a) Production: forests whose principal objective is to satisfy the national economy's requirements for wood and other forestry products through their rational use.
- b) Protection: forests whose surface must be permanently conserved to protect the renewable resources that may be associated with them but notwithstanding, may also be the object of productive activity, with their protective function always prevailing.
- c) Conservation: forests that, because of their characteristics and location, fundamentally serve to conserve and protect the natural resources, forests designated for scientific research, aesthetics, and forests aimed at the improvement and protection of the environment in general. These forests must be conserved permanently and no exploitative logging will be permitted in them, except only for wood cutting that serves to strengthen the forest's principal function and the obtaining of secondary forest products.

Article 114. The reduction of forested areas is prohibited, though in exceptional circumstances, the Council of Ministers may authorize such reductions for the economic and social development of the country.

Article 115. The Ministry of Agriculture, in coordination with the responsible agencies and bodies, directs and controls compliance with the provisions related to the Forest Patrimony and will adopt the necessary measures aimed at the protection and rational use of forest resources without prejudice to the powers of the Ministry of the Interior in reference to the protection of the aforementioned resources.

CHAPTER VI

WILD FLORA AND FAUNA

Article 116. Without prejudice to the powers granted to the Ministry of Science, Technology and Environment by this Law with respect to biological diversity, it is the responsibility of the Ministry of Agriculture and the Ministry of the Fishing Industry, in relation to protection of wild terrestrial and marine flora and fauna, and in conformity with their respective jurisdictions, after considering the opinion of other governmental bodies when appropriate, to:

- a) establish rules that regulate the management, use, transportation, and commercialization of species of wild flora and fauna and of their primary products.
- b) propose and exercise, as may be appropriate, enforcement of the rules for the protection of wild flora and fauna as well as the incentives for these activities.
- c) determine the species of wild flora and fauna that may be hunted, fished, or collected, as well as those that should be the subject of special management, based on which hunting, fishing, and collection seasons or prohibitions will be established.
- d) establish provisions for the management of ecosystems and other localities where land and marine migratory species take refuge, reproduce, or pass through.
- e) protect, in a special manner, threatened or endangered species with the aim of recovering and stabilizing their populations.

The preceding paragraphs are without prejudice to the authority of the Ministry of the Interior regarding the protection of these resources.

Article 117. The Ministry of Science, Technology and Environment, in coordination with the responsible bodies, will establish technical and scientific conditions that must be strictly observed for the establishment and operation of reproduction centers for threatened or endangered species of wild flora and fauna.