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Cuba-US: Strategies on Furthering Environmental Cooperation

By David B. Farer, ACOEL, Co-Moderator

In the aftermath of our February 22, 2021 webinars on promoting scientific and legal exchange and environmental dialogue among the people, organizations and governments of Cuba and the US, I offer the following thoughts on potential paths forward, and opportunities to be further considered. The panelists for both the History & Context session led by Dan Whittle of EDF, and the Actions & Strategies session that I co-moderated with Yociel Marerro of FANJ, provided an array of avenues to explore. I will focus on the afternoon session in which I participated.

The involvement of our organization, the American College of Environmental Lawyers (ACOEL) stems from the work of our International Pro Bono Committee. ACOEL is a not-for-profit association of highly experienced environmental lawyers from around the US, chosen by our colleagues to join our organization based on substantial and recognized careers in private practice, academia, government and Non-Governmental Organizations (NGOs).

One of the central goals of our group is to be of service in various ways, including provision of pro bono services in the US and internationally. We have worked cooperatively with local partners to provide free legal services by our group of lawyers. We facilitate the provision of pro bono services by entering into Memorandums of Understanding (MOUs) with a non-profit group or governmental agency. ACOEL and the agency or non-profit group discuss the extent to which the environmental legal services are requested. Then we put specific lawyers from our organization directly in touch with the agency or non-profit, which selects those with whom they wish to work. The services are then provided for free.

The Cuba Working Group of our International Pro Bono Committee has been involved in outreach efforts in Cuba since 2015. In 2017, we participated in the XI International Convention on Environment and Development in Havana, speaking and presenting a paper on "Effective Environmental Regulation of Critical Infrastructure Development & Operation."

In 2019, ACOEL entered an MOU with FANJ to explore the contributions that each organization's representatives can make to the other, including development of consultancies and training on specific topics in environmental law, participation in events and capacity building, and in sharing knowledge and experience of the representatives of ACOEL and FANJ concerning the environmental issues of our respective regions. While a planned joint symposium with FANJ on "Lessons Learned in Environmental Law," scheduled for March 2020 in Havana, had to be indefinitely

postponed due to the Covid-19 disruptions, we have nonetheless continued to look for ways to work and collaborate together.

We are grateful to ACOEL's co-sponsors -- Columbia University, FANJ and EDF -- that together we have been able to move forward here in strategizing on continued and expanded collaborations and engagement, building on the substantial history of interactions and activities to date pursuant to the twenty-three bi-lateral agreements entered by Cuba and the US from 2015 to 2017.

Here is a brief recap of particular ideas put forward by each of the panelists in the February 22 afternoon session on "Actions & Strategies," which struck me as particularly apt for further development:

- From Pam Giblin's session on "Climate change and its impact on agriculture": Collaborations on use of carbon sequestration methods and technology in agriculture to mitigate global warming. (In the morning session, Ms. Giblin also stressed the importance of coastal resilience being addressed collaboratively by Cuba and the US.)

- From Hope Bastian's session on "Anthropological perspectives on US-Cuban environmental collaborations": Engagement on common environmental dilemmas being faced by small scale fisheries, including overexploited stock and illegal capture, and on finding solutions in sustainable wild fisheries, sustainable aquaculture and protection of small scale fisheries.

- From Korey Silverman-Raoti's session on "Renewable energy opportunities in a highly distributed Cuban electric grid": Collaborations on developing and exploiting renewable energy options, considering joint ventures for projects such as solar power development, expediting installation of such projects, and finding solutions for investment obstacles.

- From Yordanka Castillo-Porras's session on "The benefit of executing an environmental memorandum while considering the policies of the United States and Cuba": Collaborations focusing on local governmental authority and community enforcement of environmental laws, including development of MOUs to strategize on Constitutional and other statutory sources of local governmental and community rights and enforcement powers.

- From Lee DeHihn's session on "Addressing environmental issues as an element of negotiations between Cuban and foreign companies concerning joint ventures in Cuba": Collaborations on use of existing Constitutional and other statutory law and concepts to assure that environmental considerations are a central and requisite element of such negotiations and formation of joint ventures; exploring methods aimed at assuring transparency and that there are considerations of impact to the local community.

- From Daimar Canovas's session on "Biodiversity protection as a space for Cuba USA cooperation": Collaborations on use of Constitutional and other statutory law and concepts to protect common goals of species, genetic, ecosystem and functional diversity; on environmental justice; on opportunities for cooperation between the US and Cuba on actions in this area; and on consideration of both legal and moral implications.

- From Yociel Marrero's session on "The future of US-Cuba relations: promoting environmentally responsible projects": Collaborations on projects that will be mutually beneficial to the quality of human life and the environment and to sustainability, not only of both countries but globally; cooperation on finding opportunities for funding such projects.

We look forward to using these ideas and strategies among those to be developed for collaborative projects in which we all wish to engage.

