

THE FRAMEWORK FOR PLANNING

THE SIZE AND SCOPE OF THE CURRENT COURT

The Environmental Commission (“Court”) is now emerging from its start-up phase and stands ready to receive a significant increase in caseload as new legislation is enacted and the general awareness of the stakeholders increase. At this time the Court has two full time Members and three part-time Members (one position remains vacant). The Chairman and Deputy Chairman are both attorneys at-law. The Members all have the specific technical expertise necessary for the proper resolution of complex environmental matters. Combined, the existing bench of the Environmental Court represents the full-time equivalent of 3.5 judicial positions.

The bench is supported by a Registrar’s Office staffed by a total of twenty employees (plus one vacant position). Included are clerical staff as well as Bailiffs and Verbatim Reporters. The Registrar’s Office also maintains a reference library for use by the Court, litigants and their representatives. The Registry performs a critical court administration role including receipt and custody of documents and the supervision of public access to those documents.

In its first six years of operation much effort has been spent on the important tasks of capacity building and public education. Although the Court has jurisdiction to hear Civil Assessments, Consent Agreements, Appeals, Appli-

cations and Direct Private Party Actions, it was only in the year 2006 that the first Direct Private Party Actions were filed as well as the first Appeal under section 23(3). For the most part, the Court’s initial caseload has included Consent Agreements, Civil Assessments, Appeals and Applications for enforcement of Administrative Orders.

This modest caseload is the result of a partial suite of environmental legislation that includes only Certificate of Environmental Clearance Rules and Regulations, Certificate of Environmental Clearance Orders Noise Pollution Control Rules, Environmentally Sensitive Areas Rules and Environmentally Sensitive Species Rules. Additional legislation is however currently being prepared.

THE CHANGING SITUATION

Several factors are likely to significantly add to the Court’s workload over the planning period.

- Additional legislation under consideration will increase the Court’s jurisdiction. Laws concerning air pollution, water pollution, hazardous waste and beverage container control are at various stages of the legislative process.
- In accordance with representations of the Environmental Management Authority and other litigants, it is expected that the Court will be assuming the Authority’s mediation caseload.

- The Court’s jurisdiction may be increased with the passage of legislation, for example, the Planning and Development of Land Bill which provides for appeals from the decisions of the authority established thereunder to be appealed to the Environmental Commission.
- Increased public awareness has already resulted in new categories of matters being filed: Direct Private Party Actions and Appeals from any determination by the EMA to disclose information or materials claimed as a trade secret or confidential business information under section 23(3).

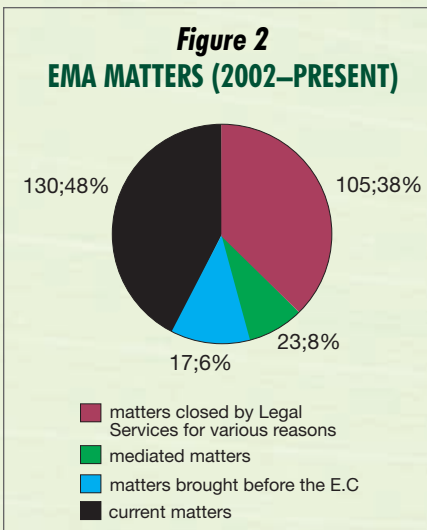
Figure 2 below describes the composition of the Environmental Management Authority’s workload. Since 2002, six percent of the matters handled by the Authority have resulted in appeals to the Court. Additionally, some eight percent of

the Authority’s work resulted in mediation. As a result of the stakeholder consultation process undertaken in arriving at this strategic plan it is expected that this mediation caseload will now be transferred to the Court. Therefore, it can be expected that over time an average of 14 percent of the matters coming before the Authority will eventually come before the Court. This coupled with an increase in direct filings and additional environmental legislation will create a much more dynamic workload picture for the Court during the period of this strategic plan.

THE FUTURE COURT

Due to an ever increasing public awareness of the existence and jurisdiction of the Court, passage of a more complete suite of environmental legislation and transfer of environmentally relevant disputes from other forums to the Court, the organisation planned for here will look substantially different from the current Environmental Commission. The following planning assumptions have been used to create a picture of the future work of the Court:

- All mediation currently performed at the EMA will be transferred to the Court (8 cases per year).
- Without any new legislation, the Court will continue to receive six percent of the matters filed at the EMA as appeals (6 cases per year).
- Direct filings will increase as public knowledge increases and the Environmental Bar takes



increased action (6 cases in the first planning year, increasing by 20 percent per year thereafter).

- Water legislation will be passed in 2007. The EMA has estimated that this will result in 7000 registrations in the first year in its Water Pollution Management Programme Report of 2001. These will provide enforcement work for the EMA for several years. At 6 percent of the EMA's workload, this results in 420 hearings before the Court over the term of the plan and beyond. This will eventually result in 105 cases per year by 2010.
- Air pollution legislation will be passed in 2007. The EMA will begin enforcement by late 2007. This may result in 500 matters coming before the EMA in 2007 and up to 1000 in years thereafter. (At the rate of 6 percent, this would result in 30 cases coming to the Court in 2007 and 60 in future years).

- Hazardous waste legislation will be passed in 2008 and the EMA begins enforcement in mid-2008. The National Hazardous Waste Inventory Study for Trinidad and Tobago, 2006 identified 303 generators of hazardous waste. (Assuming that 6 percent of these would become appeals to the Court, 18 cases per year would be added to the caseload).
- Beverage container legislation will be passed in 2009 and the EMA will begin enforcement with a few of the largest bottlers in late 2009, too late to be of consequence in the projected workload of the Court for this plan.

Figure 3 illustrates the resulting caseload of the Court if these assumptions are realized. In 2007 the existing complement of bench and staff will be fully utilised. Figures 4 and 5 show that by 2008 full time Bench Officers will be needed along with additional staff in the Registry. By 2009 and 2010, additional Bench Officers will be required as well.

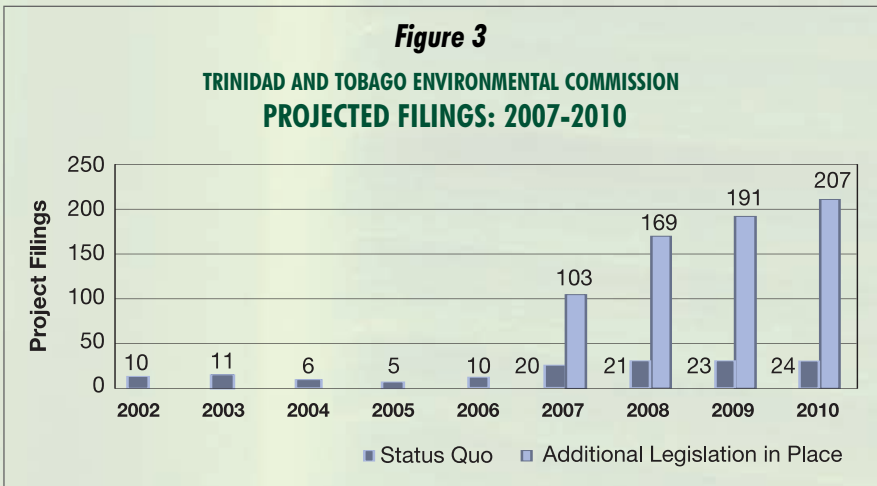


Figure 4

**TRINIDAD AND TOBAGO ENVIRONMENTAL COMMISSION
PROJECTED FILINGS: 2007-2010**

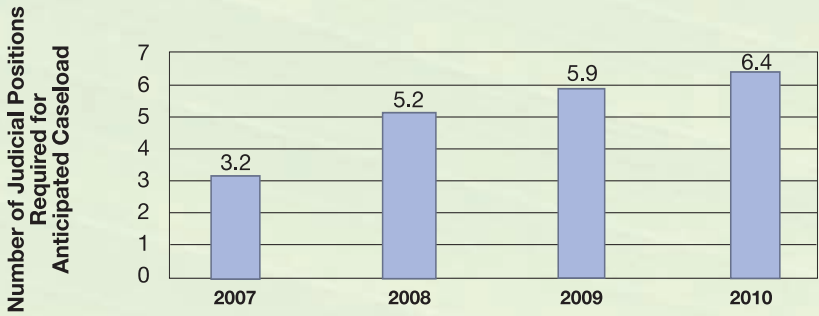


Figure 5

**TRINIDAD AND TOBAGO ENVIRONMENTAL COMMISSION
PROJECTED SUPPORT STAFF REQUIREMENTS**

