

5. Alternative Dispute Resolution

The Commission is one of the first judicial institutions in Trinidad and Tobago's legal landscape to be mandated by its enabling legislation to utilise Alternative Dispute Resolution (ADR) to seek to resolve the matters brought before it. During 2007 the Commission continued to successfully discharge this mandate. Though this has the result of significantly reducing the number of matters which would otherwise be resolved by judgement or ruling of the Court, the Commission continues to view the collaborative and other mechanisms of ADR as being highly suited to the environmental law jurisdiction.

The preparation of the Commission's Strategic Plan 2007 – 2010 brought new focus to the Court's ADR services in 2007. Consultations with former litigants and attorneys-at-law appearing before the Commission, together with other relevant stakeholders, found many advocating that the alternative dispute resolution processes provided by the Commission should be made accessible to parties at an even earlier stage than had been previously contemplated. Up to that point the initiative to offer ADR processes to litigants would be taken by the Commission, the first opportunity to offer same usually being at the first court hearing of the matter. Having taken into account the unanimous representations of the stakeholders consulted, the Commission agrees that its mandate allows it to provide such ADR services even prior to a matter being filed for litigation. Flowing from this two specific strategies were included in the Commission's Strategic Plan 2007 - 2010, i.e.:

- Strategy 1.5 - Provide the maximum range of Alternative Dispute Resolution processes for the resolution of disputes; and
- Strategy 2.2 - Create a mechanism for making the Alternative Dispute Resolution services of the Environmental Commission available to persons who have a right of access to the Commission.

In terms of Strategy 2.2 in particular, the Draft Environmental Commission Rules, 2007 sets out a procedure for parties (who are contemplating litigation before the Commission) to refer the matter to the Commission for mediation. In this regard the Draft Rules also set out, inter alia, the mechanisms for the final disposal of a matter so mediated by the Commission.