

The Virgin Islands Consortium

Long Standing Dispute Resolved Between V.I. Government, U.S. Customs And Border Patrol

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After years of discussion and negotiations, the federal government has agreed to fund pre-clearance and other federal CBP activities through federal appropriations and user fees, allowing us to retain more of our own customs duties for our General Fund needs, as Congress intended. -Gov. John de Jongh, Jr.

Gov. John P. de Jongh, Jr., announced Saturday that the Government of the Virgin Islands and the U.S. Customs and Border Patrol (CBP) have entered into a new Memorandum of Agreement (MOA) that resolves a lengthy dispute over the responsibility for financing the costs of CBP's activities in the territory, including customs pre-clearance

services that directly impact the local tourism industry.

"This agreement not only ensures that the Virgin Islands will receive the vital services it requires from the CBP, including customs pre-clearance, but stipulates that the territory will no longer subsidize these services through its local customs duties," de Jongh said.

The new agreement also affords the Virgin Islands the ability to request new or enhanced CBP services on a reimbursable basis, and sets in place a reporting system that will allow the V.I. Government to track CBP's costs in the territory in order to ensure it is not overcharged for CBP's costs of collecting V.I. customs duties.

The long-standing dispute involved the CBP's use of V.I. customs duties it collects on behalf of the territory to help finance a portion of its federal activities in the Virgin Islands. According to de Jongh, CBP had been keeping an increasing proportion of V.I. customs revenues over the years to pay for its activities in the territory, and since 2011 had kept all of the territory's duties it collected.

According to the governor, CBP is authorized by statute to withhold its costs for collecting V.I. customs duties, but not for the federal activities it undertakes in the territory, such as border surveillance and enforcement of immigration and agricultural laws. CBP has claimed it is entitled to withhold additional amounts based on a Memorandum of Agreement the V.I. Government executed with CBP's predecessor agency in 1994, but de Jongh maintained that the 1994 MOA was outdated and required renegotiation.

De Jongh said that although the Virgin Islands is a U.S. territory, it is outside of the "customs territory" of the United States, and by authorization of the Revised Organic Act can impose its own customs duties and similar fees to generate revenues for the local government.

A Government House press release said the territory has generated as much as \$16 million a year in local duties and fees in recent years, but the CBP has retained an increasing amount of these duties and fees to cover the cost of its operations and activities, leaving the V.I. Government with little or no net revenue.

De Jongh said although CBP has, until now, withheld a full accounting of its use of Virgin Islands revenue, CBP's diversion of funds is estimated to have cost the territory millions of dollars annually. In fiscal year 2012, for example, CBP retained all Virgin Islands customs duty revenue, which amounted to approximately \$12 million, and charged the Virgin Islands more than \$12 million in costs, Government House said. Those charges included more than \$1.5 million in federal immigration inspection costs, nearly \$1 million in federal agriculture inspection costs, and as much as \$3 million in federal customs costs. In addition to millions in unreimbursed federal costs, de Jongh pointed out that CBP took another nearly million dollars to pay for overhead for its Washington, D.C. headquarters.

In reaching the new agreement, de Jongh praised the efforts of CBP officials.

"Just as important as the additional revenues that will flow to the Government's General Fund under this new MOA is the strong relationship we have developed with the CBP in the course of our negotiations," he said. "I am most appreciative of the support and leadership provided by CBP Commissioner Gil Kerlikowske, who I got to know well in

Washington when he served as the White House Director of National Drug Control Policy, and when we met to discuss the security and financial challenges of the territory. In our meetings on the MOA, he reminded me of our work together to find common solutions, and I believe that was the key factor in our reaching this agreement."

To see the new Memorandum of Agreement, [click here](#).

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