



UNITED STATES GENERAL ACCOUNTING OFFICE
WASHINGTON, D.C. 20548

122882
~~3060~~

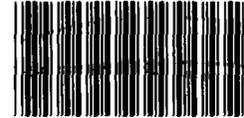
GENERAL GOVERNMENT
DIVISION

RESTRICTED — Not to be released outside the General Accounting Office except as authorized by the Committee of Congressional Liaison

25 OCT 1983

B-212463

RELEASED



122882

The Honorable Ron de Lugo
House of Representatives

Dear Mr. de Lugo:

Subject: U.S. Customs Service's Collection of Duties on Imports to the Virgin Islands (GAO/GGD-84-26)

We have reviewed, at your request, certain aspects of the customs operations in the Virgin Islands. (See enclosure I.) Specifically we determined (1) the legality of reimbursing the U.S. Customs Service for costs they incurred in assisting officials of the Virgin Islands in collecting customs duties on imports into the Virgin Islands and (2) whether the amount of duty proceeds are currently sufficient to cover collection costs. Interim information on this subject was provided to you in our letter dated August 12, 1983. The full scope of our work is explained in enclosure II.

COLLECTION COSTS SHOULD BE DEDUCTED FROM PROCEEDS FROM VIRGIN ISLANDS CUSTOMS DUTIES

Existing law provides for the Customs Service's costs of collecting duties for the Virgin Islands to be paid from the duty proceeds. The U.S. Customs Service is required under 48 U.S.C. 1395 to assist the appropriate officials of the Virgin Islands in the collection of customs duties on imports into the Virgin Islands. Also, 48 U.S.C. 1642a, enacted on July 8, 1980, presently provides that the proceeds of customs duties collected in the Virgin Islands less the cost of collecting the duties shall be put into the Treasury of the Virgin Islands. Therefore, when Customs incurs costs from assisting the Virgin Islands in collecting duties, it is to be reimbursed from the amount collected.

The Virgin Islands has paid the U.S. Customs Service's costs of collecting duties for the period we reviewed (fiscal years 1978 thru 1983, as of May 1983) except for about 1 month at the end of fiscal year 1978. The cost for that month, due to a short-lived statute, was paid by the Customs Service. The other costs were deducted from duties collected on imports, and

527199

(263980)

the remaining revenues were remitted by the Customs Service to the Virgin Islands government. This procedure is in accordance with U.S. laws relating to the Virgin Islands. (See enclosure III for a description of the applicable statutes.)

THE AMOUNT OF DUTY PROCEEDS
ARE CURRENTLY SUFFICIENT TO
COVER COLLECTION COSTS

Customs regional officials estimate that the Virgin Islands customs duty proceeds for fiscal year 1983 will be \$4.1 million and that collection costs will be \$2.7 million. This is in sharp contrast to fiscal year 1981 duty proceeds of \$172.2 million and costs of \$2.7 million. (See enclosure IV for a detailed listing of net duty proceeds.) The decrease in proceeds was caused by the U.S. Congress authorizing the Virgin Islands government in 1977 to alter the flat duty rate of 6 percent for its imports. Subsequently, in May 1981, duty on imported petroleum products was changed to 0 percent, and during fiscal years 1982 and 1983 the duties on other imported products were reduced.

The law is silent as to what would occur if duty proceeds were insufficient to cover collection costs. Nor is there any discussion in the legislative history indicating that the Congress ever contemplated the possibility that the proceeds would be insufficient. Representatives of the Virgin Islands government told us that if duty proceeds were insufficient, it would be responsible for reimbursing the Customs Service for the amount of its costs not covered by the collected duties. Technically, there is no reason to believe that, under current law, the Customs Service and the Virgin Islands could not agree to such an arrangement. Another option would be for the Customs Service to reduce its staffing levels, provided that it still meets the statutory requirement to assist the Virgin Islands in customs duty collection.

* * * *

Because of time constraints, your office requested we not obtain agency comments on this report. As arranged with your office, unrestricted distribution of this report will be made 30 days after the date of the report or at the time of public release of the report's contents by your office.

Sincerely yours,

W. J. Anderson

William J. Anderson
Director

RON DE LUGO
DELEGATE, VIRGIN ISLANDS

**COMMITTEE ON INTERIOR AND
INSULAR AFFAIRS**

SUBCOMMITTEES:

**PUBLIC LANDS AND NATIONAL PARKS
INSULAR AFFAIRS**

**COMMITTEE ON PUBLIC WORKS
AND TRANSPORTATION**

SUBCOMMITTEES:

**AVIATION
SURFACE TRANSPORTATION**

**POST OFFICE AND
CIVIL SERVICE COMMITTEE**

SUBCOMMITTEES:

POSTAL OPERATIONS AND SERVICES

Congress of the United States
House of Representatives
Washington, D.C. 20515

February 23, 1983

WASHINGTON OFFICE:
2445 RAYBURN HOUSE OFFICE BUILDING
WASHINGTON, D.C. 20515
(202) 225-1790

DISTRICT OFFICES:
U.S. FEDERAL BUILDING — Box 906
ST. THOMAS, VIRGIN ISLANDS 00801
(808) 774-4408

P.O. Box 7140
SUNNY ISLE SHOPPING CENTER
ST. CROIX, VIRGIN ISLANDS 00880
(808) 775-8808

Mr. Charles A. Bowsher
Comptroller General of the United States
General Accounting Office
441 G Street, N.W.
Washington, D.C. 20548

Dear Mr. Bowsher:

The U.S. Customs Service collects duties and pre-clears airline passengers entering the United States from the U.S. Virgin Islands, which is outside of the U.S. Customs territory. There is some confusion as to the actual cost of the service provided and who is responsible for paying for it.

Initially, the Virgin Islands Government covered the cost of duty collections and pre-clearance in the Islands, per an agreement with the Customs Service. This was later changed by law to provide that Customs would pay the cost of collections. This law Customs had changed to require that the Virgin Islands cover the cost of collections. Once again, legislation was signed into law requiring Customs to cover the cost of collections. Once more, Customs had it changed. This last volley was in the 96th Congress. Thus, the Virgin Islands currently pays the cost.

The amount charged for collections and pre-clearance, which Customs deducts from duties collected for the Virgin Islands, has appeared to be inordinately high. Concern over the cost heightened when Customs threatened this year to pull out of the Virgin Islands because it feared that collections would not cover operating costs. Although asked to produce a breakdown of its operating costs, Customs has declined to do so.

I, therefore, request the following:

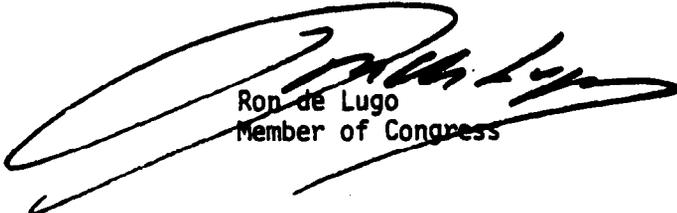
- (1) What is the correct interpretation of the law with regard to who pays for Customs activities in the Virgin Islands?

Mr. Charles A. Bowsher
February 23, 1983
Page two

- (2) What is the breakdown, in detail, of the cost of Customs activities in the Virgin Islands?
- (3) Is the Virgin Islands billed for all Customs activities in the Virgin Islands?

I am in need of the kind of reliable analysis which I know the General Accounting Office is capable of producing. Your response is, therefore, anxiously anticipated.

Sincerely,



Ron de Lugo
Member of Congress

RdL/Bhc

OBJECTIVES, SCOPE, AND METHODOLOGY

The objectives of our review were to (1) interpret the law with regard to who should pay for customs activities in the Virgin Islands, (2) provide a breakdown of the costs of collections from customs activities in the Virgin Islands for fiscal years 1981 thru 1983, as of May 1983, and (3) determine whether the costs charged by the Customs Service for salaries and expenses were incurred in assisting the Virgin Islands government in the collection of customs duties.

In accomplishing the first objective, we reviewed the laws and legislative history relating to the collection of customs duties in the Virgin Islands, reviewed U.S. Customs documents regarding their interpretation of these laws, and interviewed legal counsel of U.S. Customs in the Miami region.

To accomplish the second and third objectives we interviewed officials of the Virgin Islands government, the U.S. Customs Miami Regional Office, and the U.S. District Office in the Virgin Islands. We also toured the customs facilities in St. Thomas and St. Croix where U.S. Customs operations are conducted for the Virgin Islands. Our review covered fiscal years 1978 thru 1983 (as of May 1983). We reviewed, in detail, duty cost and collection documents for the Virgin Island operations provided by the U.S. Customs Miami Regional Office for fiscal years 1981, 1982, and 1983 through May (except for September 1982 documents that Regional officials could not locate).

Our review was made in accordance with generally accepted government auditing standards. Because of time constraints, Delegate Ron de Lugo's office requested we not obtain agency comments on this report. The material, however, was discussed with Customs' southeast regional officials who agreed with the facts presented.

DESCRIPTION OF THE REVISED ORGANIC ACT

The Revised Organic Act of the Virgin Islands was enacted in 1954 and provided in section 28(a), 48 U.S.C. 1642, for subtracting the costs of collecting customs duties from the amount of duties that would be retained by the Virgin Islands. Laws governing the use of collections to reimburse the Customs Service for its costs have been revised four times over the past 5 years. Currently, the statute provides that

"Notwithstanding any other provisions of law, the proceeds of customs duties collected in the Virgin Islands less the cost of collecting all said duties shall, effective for fiscal years beginning after September 30, 1979, be covered into the Treasury of the Virgin Islands, and shall be available for expenditure as the Legislature of the Virgin Islands may provide."

On August 18, 1978, section 28(a) was amended by deleting the phrase "less the cost of collecting all of said duties, taxes, and fees." However, on July 25, 1979, the Supplemental Appropriations Act, 1979, was enacted to provide that notwithstanding any other provisions of law, "the proceeds of custom duties collected in the Virgin Islands less the cost of collecting all said duties shall, effective for fiscal years beginning after September 30, 1978 be covered into the Treasury of the Virgin Islands" (48 U.S.C. 1642a). Hence, the only period not requiring the deduction of costs from collections was August 18, 1978, through September 30, 1978. Customs officials at the Miami Regional Office said that the Customs Service paid the costs for this period but all costs since then have been deducted from the duties collected on behalf of the Virgin Islands.

On March 12, 1980, the U.S. Congress repealed the provision enacted on July 25, 1979, (48 U.S.C. 1642a) and again amended section 28(a) of the Revised Organic Act (48 U.S.C. 1642) by limiting the reimburseable costs to "the costs of collecting duties attributable to the importation of petroleum products . . .". However, on July 8, 1980, the Supplemental Appropriations and Rescission Act, 1980 provided that "notwithstanding any other provision of law, the proceeds of customs duties collected in the Virgin Islands less the cost of collecting all said duties, shall, effective for fiscal years beginning after September 30, 1979, be covered into the Treasury of the Virgin Islands . . .". The effect of this provision, contained in 48 U.S.C. 1642a, was to restate the requirement that the Customs Service be reimbursed from collections for all costs incurred in collecting duties in the Virgin Islands.

VIRGIN ISLANDS DUTY PROCEEDS IN RELATION
TO THE CUSTOMS SERVICE'S COLLECTION COSTS

Net duty proceeds (duty proceeds minus the cost of collections) for fiscal years 1978, 1979, and 1980 were \$155.1, \$166.9, and \$253.5 million. The amount of duty proceeds, collection costs, and net duty proceeds for the last 3 fiscal years are presented in detail in the following table.

Virgin Islands Duty Proceeds In Relation To The
Customs Service's Collections Costs

	Fiscal year		
	<u>1981</u>	<u>1982</u>	<u>1983 a/</u>
Duty proceeds	\$172,206,858	\$7,984,743	\$2,937,177
Less: Customs Service's col- lections costs <u>b/</u>			
Salaries and benefits	2,313,162 (84.8)	2,344,448 (86.5)	1,519,090 (86.9)
Travel and trans- portation	39,283 (1.4)	54,444 (2.0)	17,302 (1.0)
Rent, utilities, and communica- tions	178,072 (6.5)	178,844 (6.6)	119,421 (6.8)
Supplies and materials	12,982 (0.5)	19,736 (0.7)	10,193 (0.6)
Other services and costs	172,342 (6.3)	106,000 (3.9)	73,884 (4.2)
Equipment and repairs	12,677 (0.5)	7,570 (0.3)	7,849 (0.5)
Total	<u>2,728,518 (100.0)</u>	<u>2,711,042 (100.0)</u>	<u>1,747,739 (100.0)</u>
Net duty proceeds	<u>\$169,478,340</u>	<u>\$5,273,701</u>	<u>\$1,189,438</u>

a/Data for fiscal year 1983 are through May 31, 1983.

b/Percentage of specific cost to total collections costs is shown in parentheses.

Our analysis of the Customs Service's collection costs for fiscal years 1981, 1982, and 1983 (as of May 31, 1983) disclosed that the salaries and expenses were incurred in assisting the Virgin Islands government in the collection of customs duties. Also, these costs include costs of preclearance inspections--inspecting U.S.-bound travelers before they leave foreign airports--in the Virgin Islands. The Virgin Islands government agreed to pay these costs in 1967 because, in their opinion, preclearance aids tourism. The Customs Service estimates that these costs are about \$600,000 per year.

As shown in the table, the Customs Service's personnel costs and total costs have remained relatively constant over the last 3 fiscal years (if 1983 amounts are projected to a full year) despite a general increase in inflation during this time. This consistency also reflects Customs Service's personnel reductions. Specifically, the number of permanent positions have been reduced from 68 in 1981 to 62 as of April 1983, and part-time positions were reduced from 27 to 3 over the same time period.