Testimony of Congresswoman Stacey Plaskett (VI)

Senate Committee on Energy and Natural Resources

Hearing: "Full Committee Hearing to Examine the Impact of COVID-19 to U.S. Territories"

366 Dirksen Senate Office Building

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Good Afternoon Chairwoman Murkowski, Ranking Member Manchin, members of the Committee. My name is Stacey Plaskett. I represent the Virgin Islands of the United States in the Congress. Thank you for the opportunity to present testimony before the committee on the impact of COVID-19 in the territories, and specifically in the Virgin Islands. The economic impact in particular has been especially negative in the territories.

Coronavirus in the Virgin Islands

As far as the public health crisis is concerned, our first COVID case was confirmed on March 13th. On that day, Governor Albert Bryan declared a local State of Emergency. On March 21st, the Governor asked all non-essential businesses to close. On March 23rd, the Governor issued a stay at home order effective March 25th. On April 2nd, President Trump approved Governor Bryan's request for a major disaster declaration. This past month, the territory has moved through the "stay at home" to "safer at home" and now the "open doors" phase. Our mitigation efforts remain consistent with a clear message of masks are the most important tool to staying COVID free.

As of Sunday, June 27th, the Virgin Islands Department of Health has identified 81 positive cases with 4 remaining active cases, 71 recovered cases, 2 hospitalized and 6 deaths. Like everyone else, we experienced a lack of supplies of all kinds. With the assistance of federal partners, we are better supplied now; however, we remain concerned about the full and timely replacement of personal protective equipment, swabbing and testing supplies. The more than $3.5 million in federal support from the Provider Relief Fund established by the CARES Act has been greatly appreciated, though more will be needed with cases ticking up slightly as airlines and visitors return.

<u>Economic impact of the pandemic</u>

The Virgin Islands is highly dependent on the tourism industry. It generates 30% of the territory's Gross Domestic Product and employs 25% of its civilian labor force. Due to reduced tourism revenues because of the COVID-19 pandemic, the territory is suffering even more devastating economic losses than other U.S. jurisdictions. As I will discuss, the most support needed for the Virgin Islands to come back from the pandemic will be related to measures for economic recovery and development.

The scale of the economic calamity for the Virgin Islands is such that even the sweeping relief provided by the CARES Act, while very much appreciated, is inadequate to prevent the territory from sinking into serious economic crisis. Economic models have projected a revenue shortfall of $250 million in 2020—more than 25% of the yearly budget—and another $250 million in 2021. The sudden and drastic drop in government revenues has reduced cash on hand to dangerously low levels, jeopardizing the ability to make payroll and perform basic public services. Unemployment claims jumped nearly 100% from March to April of this year, from 4.7% to 8.4%, while government revenues have dropped to unprecedented lows.

In the Virgin Islands, tourist expenditures usually average about $1.2 billion per year as the territory brings in hundreds of thousands of air arrivals and cruise visitors. Typically, there is an average of 178,644 cruise ship visitors in March (based on data from 2013-2019); however, in March 2020, there were only 78,078, or 43% of the typical monthly average, due to the global suspension of cruise ship activity that started on March 14th. Until at least July 18th, there will be no cruise ship visitors. One cruise ship operator has announced a restart in August of just eight ships out of a fleet of 100. If the April to September 2020 cruise ship and air arrivals are 50% off from historical averages, the likely expenditures will be just $43.8 million. At the same time, the relaunch of one of the territory's major non-tourism sector manufacturing businesses, the oil refinery on St. Croix, may be delayed by the drop in global oil prices and usage, depriving the local government of another expected source of significant revenues.

Federal response

The CARES Act has ameliorated some of these harms, and we appreciate that; but it will not prevent serious and lasting damages to the Virgin Islands economy. The Coronavirus Relief Fund has provided the Virgin Islands with approximately $75 million in desperately needed funds, but those funds can only be used for expenses that were unbudgeted and specific to COVID-19 and will fall far short of the revenues lost to the pandemic.

There are other areas of the federal response that have been uneven in the territories or have left them behind. For example, the list of Social Security recipients in the Virgin Islands has still not been sent by the U.S. Treasury to our local tax agency, the Virgin Islands Bureau of Internal Revenue, for these beneficiaries to receive their Economic Impact Payments. VI BIR is responsible for paying out the stimulus checks because the Virgin Islands operates mirror tax code of the U.S., under which the federal tax code regarding income taxes is mirrored as the local tax code, with proceeds of the mirror code paid to the local government. While there was a provision in the CARES Act providing for federal reimbursement for the cost, because the list of Social Security recipients in the Virgin Islands has not been sent from U.S. Treasury to VI BIR, seniors in the territory are not getting checks.

The territories were also excluded from access to the Municipal Liquidity Facility set up by the Federal Reserve pursuant to Title V of the CARES Act. The territory's tourism industry is critically strained, and it needs access to this type of credit, which would be used to meet cash-flow needs with very low interest rates.

Hospitals in the small territories were also not made eligible for outlier payments under the CARES Act. This was the Medicare hospital inpatient prospective payment system [IPPS] add-on payment for COVID–19 patients during the emergency period. Hospitals in the small territories, along with other mostly rural hospitals in the United States, continue to be paid by Medicare solely under a reasonable cost-based system that pre-dates the IPPS, established under the Tax Equity and Fiscal Responsibility Act of

1982, or “TEFRA”, and there was no consideration for TEFRA hospitals in the provision for add-on payments.

In addition, while the Virgin Islands (population 106,631) is approximately one fifth the size of the smallest populated state, Wyoming (population 578,759), under the Coronavirus Relief Fund established by the CARES Act, it received approximately one-seventeenth the minimum funding of the smallest States. This is inequitable: the pandemic does not distinguish between the United States territories and the United States, and the help available to American citizens threatened by it should not either. The relatively small amount of Coronavirus Relief Fund payment provided to the Virgin Islands cannot nearly fill the revenue gap facing the territory. As a result, the Virgin Islands will need a significant infusion of operating funding for fiscal years 2020 and 2021, covering both the outlays for COVID expenses, and the loss of revenue. Otherwise, it will fall far short of the revenues lost to the pandemic. The HEROES Act passed by the House has the formula and the provisions necessary to provide this relief.

Going forward

Going forward, the Virgin Islands will need long-term economic recovery measures to ensure financial viability and stability. None of the stimulus efforts enacted to date has addressed the financial burdens still faced by the Virgin Islands in its slow recovery from consecutive category 5 hurricanes in 2017: Community Disaster Loan (CDL) debt payments, and FEMA local cost share for recovery funding. These are enormous financial burdens that force the territory to devote hundreds of millions of dollars it does not have to continue to recover from past crises, and when it now badly needs resources to combat the current one. Both of these issues should be addressed in the next package – the CDLs cancelled (as they typically are) and the FEMA local cost share waived – for the islands to fully recover.

Secondly, the Virgin Islands will need significant federal aid for its marine ports. The rapid spread of COVID-19 has had a major impact on global shipping and cruising, and this has taken a severe toll on the operations of the Virgin Islands Port Authority's marine division. The CARES Act contained targeted support for airports, but not for marine port operations. I ask that you support all possible federal funding initiatives for the marine industry, including port-specific appropriations to the U.S. insular areas.

Lastly, and perhaps most importantly, Congress should address tax provisions that are inequitable to the Virgin Islands in order to allow the territory to diversity its economy outside of tourism, so that its economic future is not determined by the state of the tourism sector and the ebbs and flows of disposable income of visitors.

For many years, federal law has provided for bona fide residents of the Virgin Islands to pay their U.S. tax obligations to the government of the Virgin Islands. It also has allowed the Virgin Islands to offer an economic development program that relates specifically to Virgin Islands source income, and income "effectively connected" with the active conduct of a Virgin Islands trade or business. This arrangement proved to be successful for many years, providing the backbone for economic growth and diversification.

That successful arrangement changed with the American Jobs Creation Act of 2004. The Act limited income “effectively connected” to the Virgin Islands to exclude all U.S. source income—a restriction that effectively discriminates against U.S. possession source income vis-a-vis foreign source income. This has severely inhibited economic growth in the Virgin Islands. The territory has been working to solve this problem through a simple clarification of what income is properly attributable to U.S. source income limitations: income which is attributable to an office or fixed place of business within the United States. The Virgin Islands has also sought parity between the way capital gains in the territory are treated, to be the same way that they are treated with respect to other territories. These changes, which I have introduced in legislation, H.R. 411, the Territorial Tax Parity Act, are a simple matter of parity that the Internal Revenue Service has no objections to, and should be included in any economic recovery legislation to provide a path for the Virgin Islands to recover its own economy over the long term.

There should also be an equitable exemption for U.S. territories from new taxes on global intangible low-taxed income (GILTI) enacted under the Tax Cuts and Jobs Act, intended for foreign countries, so that unintended consequences for the territories may be avoided, such as erosion of the tax base in the territories and exacerbated unemployment on the islands at the worst possible time. This legislation is numbered H.R.6648/S.3940, the Territorial Economic Recovery Act.

We must confront the difficult reality that these U.S. islands, and their U.S. citizen residents, have been neglected and allowed to fall behind. Thank you for the opportunity to speak, and I look forward to your questions.