

## Chapter 2 Institutional Framework

### An Environmental Profile of the Island of Jost Van Dyke, British Virgin Islands



including Little Jost Van Dyke, Sandy Cay, Green Cay and Sandy Spit



## 2. INSTITUTIONAL FRAMEWORK

### THE PUBLIC SECTOR

The British have maintained sovereignty in the BVI since 1672, although, in the beginning, the colony was not one of Great Britain's more profitable overseas enterprises. As a British colony, the BVI was administered as part of the Leeward Islands Federation from 1872 to 1956, at which time British colonial rule in the Caribbean began to break up and the Leeward Islands Colony was dissolved.

In the 1960s and into the early 1970s, the possibility of a political merger was explored by the governments of both Virgin Islands (UK and US), a not unreasonable concept given that the two territories share social, cultural, economic, and geographic ties. Eventually, the possibility of a political union was dropped and is no longer pursued by either territory (O'Neal and Cohen, 2001).

Constitutional reform in 1967 eventually established the BVI as a British Dependent Territory (now named Overseas Territory), with a locally elected legislature and chief minister. The U.S. dollar was also established as the official national tender.

As a Crown Colony, the BVI Head of State is the British Monarch, represented locally by a Crown-appointed Governor who is responsible for

external affairs, internal security, defense, and the public service. The BVI also enjoys a high level of self-government, based on a Westminster Parliamentary model of government. A new Constitution Order in 2007 further defined the political relationship between the United Kingdom (UK) and the BVI.

The legislative functions of government reside in a 13-member, elected House of Assembly (replacing the Legislative Council in 2007). The Cabinet (replacing the Executive Council in 2007) is charged with the general management of Government and is collectively responsible to the House of Assembly. The Premier (replacing the office of Chief Minister in 2007) is appointed by the Governor from the elected members of the House.

The Government comprises six ministries and a collection of specialised departments to administer selected portfolios. In October of 2008 the Premier announced changes in the portfolios of certain ministers, including the addition of climate change, global warming, and alternative energy as new responsibilities for the Minister of Natural Resources and Labour.

### Sister Islands Programme

The Sister Islands Programme was established in 2003 as part of the Deputy Governor's Office to monitor, promote and facilitate the delivery of Government services to the sister islands, including Jost Van Dyke, Anegada, and Virgin Gorda. To achieve that objective, the Programme Coordinator works with and supervises District Officers on each of the three main sister islands. The Coordinator acts, in effect, as an administrator for the sister islands, while also serving as a liaison for the Deputy Governor's Office with the District Officers.

The District Officer for Jost Van Dyke was the last to be appointed; the incumbent, Carmen Blyden, is the first to hold the post. Her duties include:

- Processing requests and transfer of information from/to the Government in Tortola.
- Collection of land taxes.
- Supervision of designated Government employees in JVD.
- Oversight of postal services.
- Facilitating visits and other activities of Government officials in JVD.
- Coordination of various Government services such as water delivery, disaster management, dissemination of Government payments to

the island's elderly, and distribution of tourism promotion materials.

A cursory perusal by IRF's project team of BVI media sources during the last half of 2008 provided evidence of a periodically strained relationship between the primary island unit (Tortola) and the secondary island unit (Jost Van Dyke) (see **Box 1**). Such tension is not uncommon in the Caribbean, equally manifest in the relationships between, for example, St. Thomas and St. Croix, Antigua and Barbuda, St. Kitts and Nevis, and—in the BVI—between Tortola and Virgin Gorda. One area of conflict is the continuing disruption of JVD's water supply and the seeming inability of the authorities in Tortola to address the problem to the residents' satisfaction. The inadequacy of on-island medical services is also a continuing source of tension.

During a recent water crisis, one resident was quoted as saying, "For an island that brings in as much revenue as [JVD] does between customs and immigration [taxes from charter boat arrivals] and some of the most famous bars in the BVI, it is a shame how we have to live" ([www.bvinews.com](http://www.bvinews.com), July 15, 2008).

Additional grievances were on display at a community meeting in October where frustration with the approach of the Government in Tortola was openly aired. As lamented by one concerned participant, "They keep promising and

promising, [but] there is nothing behind it. We are in need of proper medical care, schools, roads and I could go on and on" (*The Virgin Islands StandPoint*, October 2, 2008).

## The Environmental Units of Government

While overall responsibility for the environment resides within the **Ministry of Natural Resources and Labour** (MNRL), there are other units of government that

### Box 1 JOST VAN DYKE AND TORTOLA

The relationship between any central unit of authority, such as that in Tortola, and a satellite dependency, such as Jost Van Dyke, will almost inevitably lead to feelings of perceived neglect on the part of the community associated with the satellite unit, as well as an assumption of inequity in the distribution of public resources. It is a longstanding factor, and will likely continue to be a dynamic, in the social and economic development of Jost Van Dyke, even as the island assesses its future options for both economic expansion and environmental protection. A key question will remain: how effectively and how successfully—and to what extent—can Jost Van Dyke determine its own future?

also have responsibilities related to the environment. These include the **Town and Country Planning Department** (T&CPD), within the Premier's Office, charged with executing the Physical Planning Act, 2004, including responsibility for Environmental Impact Assessments, and the **Ministry of Health and Social Development**, which handles environmental health and solid waste management.

However, it is the Ministry of Natural Resources and Labour that carries primary responsibility for the Territory's environmental resources. Within the Ministry, there are three agencies that execute specific responsibility for the management and protection of the environment.

**(1) Department of Conservation and Fisheries (C&FD)**

The Department was established in 1989 and has a strong conservation mandate to protect the natural resources of the BVI; at present, the C&FD manages 14 protected areas, all fisheries reserves. The Department also carries out an equally compelling resource development mandate in the area of fisheries development. Much of the Department's focus has traditionally been on the coastal and marine environment. In addition to fisheries management, the department's primary functions include environmental monitoring, environmental education, and environmental information management.

**(2) National Parks Trust (NPT)**

Unlike the C&FD, the Trust is a statutory body, established by legislation in 1961 and governed

by a Minister-appointed board (the same Minister to whom the C&FD is answerable). The Trust is legally responsible for the Territory's Protected Areas System, including the 21 specific sites under its direct jurisdiction.

**(3) Department of Agriculture**

In addition to its primary mission to develop the agricultural sector, the Department is also mandated to designate areas for the protection of watersheds and water sources and the prevention of deforestation.

Seven such protected areas are currently under the management authority of the Department.

Since early in this century, Government has considered a more comprehensive approach to environmental protection and management. Most recently, the Law Reform Commission drafted a new

framework for environmental management in the BVI that would bring together many public sector environmental responsibilities—particularly those identified with the C&FD and the NPT—under a single new management authority. Proposed legislation, encompassing a new environmental management framework that utilises an OECS model, has been drafted by the Law Reform Commission and currently is with the Attorney General's Chambers undergoing review.

A summary of the *primary* BVI public agencies that currently manage and protect the environment of Jost Van Dyke and the other Profile islands is provided in **Table 5**. (Please note that Table 5 is not a representation of the Government's territory-wide environmental responsibilities.)

**Table 5. Current JVD interaction with the primary environmental units of the BVI Government.**

UNIT OF GOVERNMENT	ENVIRONMENTAL FUNCTIONS THAT AFFECT JOST VAN DYKE, LITTLE JOST VAN DYKE, SANDY CAY, GREEN CAY, AND SANDY SPIT
<p>Department of Conservation and Fisheries (Ministry of Natural Resources and Labour)</p>	<ul style="list-style-type: none"> <li>- Wildlife protection.</li> <li>- Water quality monitoring of inshore waters.</li> <li>- Inventory and monitoring of beaches, coral reefs, mangroves, seagrass beds.</li> <li>- Beach maintenance (especially heavily used beaches) and beach surveillance (to prevent sand removal).</li> <li>- Management of Green Cay/Sandy Spit Fisheries Protected Area.</li> <li>- Promotion of fisheries development.</li> <li>- Promotion of environmental education and public awareness programmes.</li> </ul>
<p>National Parks Trust (Ministry of Natural Resources and Labour)</p>	<ul style="list-style-type: none"> <li>- Management of the Diamond Cay National Park and the Sandy Cay Habitat Management Area.</li> <li>- Leadership for the incorporation of the following sites into the BVI Protected Areas System, as these are designated in the <i>Protected Areas System Plan, 2007-2017</i> (Gardner, 2007): Green Cay, Sandy Spit, Thomas George Bay (JVD), Cape Wright, East End Harbour (JVD), and Lettsom Plantation House (LJVD).</li> <li>- Partnership with the JVD Preservation Society for site maintenance and invasive species monitoring at Sandy Cay.</li> <li>- Promotion of environmental education and public awareness programmes.</li> </ul>

<p>Department of Town and Country Planning (Premier's Office)</p>	<ul style="list-style-type: none"> <li>- Responsibility for Environmental Impact Assessments for proposed JVD development projects, as authorised under the Physical Planning Act.</li> <li>- Responsibility for compilation of a list of buildings or sites in the Territory (including JVD) which are of special interest, for the purpose of determining buildings that should be preserved or protected.</li> <li>- Responsibility for issuing plant preservation orders for the purpose of protecting plants or plant species designated for preservation, including plant species in JVD.</li> <li>- Preparation of development plans such as those prepared for White Bay (Local Area Plan) and Great Harbour (Civic Improvement Plan).</li> </ul>
<p>Department of Solid Waste (Ministry of Health and Social Development)</p>	<ul style="list-style-type: none"> <li>- Responsibility for the management of solid waste.</li> </ul>
<p>Department of Environmental Health (Ministry of Health and Social Development)</p>	<ul style="list-style-type: none"> <li>- Responsibility for environmental pollution control.</li> </ul>

## ENVIRONMENTAL LEGISLATION

A number of legal and regulatory instruments related to the protection of the environment in the BVI have relevance for Jost Van Dyke and the adjacent satellite islands included in this *Environmental Profile*. These are outlined in **Table 6**, along with certain global treaties and regional agreements that pertain to the BVI. Three fairly recently enacted laws are of particular relevance.

### (1) Fisheries Act (1997) and Regulations (2003)

The purpose of this legislation is to make provision for the promotion, management and conservation of fisheries resources in the Territory. The legislation authorises actions with respect to the conservation of fish and protection of the marine environment. Fourteen fisheries protected areas were declared under the 2003 Regulations, one of which is at Green Cay.

Under the legislation, the Minister also has broad authority to control pollution in the marine environment from any source, including land-based sources.

The legislation also authorises the Minister to declare by Order any type of fish as a protected species. Pursuant to this authority, the Fisheries Regulations prohibit disturbing or interfering with turtle eggs, turtle nests, and any turtle that is nesting; turtles have been known to nest on Jost Van Dyke, Little Jost Van Dyke, and Sandy Cay (Eckert, 1992).

### (2) Physical Planning Act, 2004

The Territory's new Physical Planning Act, among other things, governs the Environmental Impact Assessment (EIA) process for development activities in the Territory, including future JVD development projects. It includes a number of provisions related to protecting the environmental, historic, and cultural values of a proposed development site. Because Regulations have not yet been approved for this law, the effectiveness of implementation will be lessened until the controls and procedures are in place to guide all parties—public and private—when taking action under the law.

### (3) National Parks Act (2006) and Regulations (2008)

The BVI's new National Parks Act and Regulations provide a forward-looking framework for protected area management in the Territory. The legislation incorporates modern concepts of protected area management, including an internationally recognised system of categories for designating protected areas. Sandy Cay is the first site to be declared under the new Act and will be managed as a Habitat and Species Management Area (section 15(d) of the Act), which signifies a protected area managed mainly for conservation through management intervention.

Other environmental laws are noted in **Table 6**. The authority to regulate activities that protect and manage the environment in the BVI is dispersed among the laws and ordinances listed in this Table. All legislation included is applicable to Jost Van Dyke and the satellite cays and islets studied in this *Profile*.

The Table illustrates that, although important law and policy tools for environmental management have been established in the BVI, many challenges still lie ahead. The Physical Planning Act requires regulations and until then, the law will function more as a set of guidelines than as enforceable policy. The area of pollution control needs to be strengthened, particularly in a community like the BVI that is growing and developing at a rapid rate. Also, there is limited legal authority for protecting wildlife and critical ecosystems and habitat outside of formally protected areas.

Lastly, the future of effective resource protection and environmental management in the BVI ***will depend on Government's commitment to full implementation of existing laws and full support for the authority of those agencies executing the laws.***

**Table 6.**  
**BVI legal and regulatory instruments**  
**related to the protection and management of the environment. \***

NATIONAL LEGISLATION		
<b>PLANNING AND DEVELOPMENT CONTROL</b>	<i>Physical Planning Act</i> (2004) (no regulations to date)	See text for details.
<b>COASTAL RESOURCES</b>	<i>Fisheries Act</i> (1997) <i>Fisheries Regulations</i> (2003) <i>Beach Protection Act</i> (1985)	See text for details. See text for details. The Act requires a permit for dumping on and removal of material from the foreshore and removing any natural barriers against the sea.
<b>AGRICULTURE</b>	<i>Protection of Trees and Conservation of Soil and Water Ordinance</i> (1954/1965)	Authorises designation of protected forest areas, protected water areas, and protected trees. Seven protected areas have been established under this Ordinance, none on JVD.
<b>PROTECTED AREAS</b>	<i>National Parks Act</i> (2006) <i>National Parks Regulations</i> (2008)	See text for details. See text for details.
<b>WILDLIFE</b>	<i>Wild Birds Protection Ordinance</i> (1959/1980)  <i>Turtles Ordinance</i> (1959)  <i>Protection of Endangered Animals, Plants, and Articles (Removal and Possession) Ordinance</i> (1981)	The law protects listed birds, their eggs, nests, and young. Bird Sanctuaries Orders in 1959 and 1997 designated 20 bird sanctuaries in the Territory (none on JVD), which provide full protection for all species of wild birds within the sanctuaries.  The Ordinance protects turtles from being disturbed or taken during nesting periods and prohibits the taking of turtle eggs, but does not address general protection of habitat for turtle nesting or feeding grounds.  This law was enacted specifically to prohibit the removal without a license of listed corals; it does not address protection of coral reefs <i>in-situ</i> .
<b>WASTE MANAGEMENT</b>	<i>Public Health Ordinance</i> (1967)	Authorises regulations to prevent, abate, and control environmental pollution. Environmental pollution is not defined, and regulations providing environmental standards have not been enacted.
NATIONAL POLICY		
<b>ENVIRONMENTAL SUSTAINABILITY</b>	<i>St. George's Declaration of Principles for Environmental Sustainability in the OECS</i> (July 25, 2001)	The Declaration was signed by the Chief Minister, on behalf of the Government, in 2001. The document contains 21 Principles and recognises, among other things, the need for an integrated approach to managing land and marine areas as a single unit.
<b>ENVIRONMENTAL SUSTAINABILITY</b>	<i>British Virgin Islands Environment Charter</i> Signed by UK and BVI Governments (September 26, 2001)	Guiding principles for the UK Government, Government of the BVI, and the people of the BVI.
REGIONAL AGREEMENTS		
<b>MARINE ENVIRONMENT</b>	<i>Cartagena Convention</i> , commonly known as the <b>Caribbean Regional Seas Agreement</b> , came into force in 1986 and was extended to the BVI in 1987	The Convention encourages Contracting Parties to undertake agreements and protocols for the protection of the marine environment in the region.

## GLOBAL TREATIES

<b>BIODIVERSITY</b>	<b><i>Convention on Biological Diversity</i></b> (1992), extended to the BVI in 1994	The Convention contains a series of far-reaching obligations related to the conservation of biological diversity and the sustainable use of its components.
<b>WETLANDS</b>	<b><i>Convention on Wetlands of International Importance especially for Waterfowl Habitat</i></b> (1971), also known as <b>Ramsar</b>	This international Convention was extended to the BVI in 1999 with the acceptance by the Ramsar Secretariat of the BVI's application to list the Western Salt Ponds of Anegada as a "wetland of international importance especially for waterfowl". One of the obligations triggered by the Convention is that the BVI promote wise use of all wetlands within the Territory.
<b>MIGRATORY SPECIES</b>	<b><i>Convention on Migratory Species</i></b> (1983) also known as the <b>Bonn Convention</b> , extended to the BVI in 1985	The Parties to the Convention acknowledge the importance of migratory species being conserved and the need to take action to avoid any migratory species becoming endangered.
<b>LAW OF THE SEA</b>	<b><i>United Nations Convention on the Law of the Sea</i></b> (1982) Convention came into force in 1994, was ratified by the UK and extended to the BVI in 1997	Part XII of the Convention ("Protection and Preservation of the Marine Environment") sets out a fundamental obligation of the BVI to protect and preserve its marine environment, and to take all measures necessary to prevent, reduce, and control pollution of the marine environment from any source.
<b>TRADE IN ENDANGERED SPECIES</b>	<b><i>Convention on International Trade in Endangered Species of Wild Fauna and Flora (CITES)</i></b> Convention entered into force in 1975, extended to the BVI in 1976	Requires national legislation as the Convention is not self-executing. See above (National Legislation section of this Table), the <i>Protection of Endangered Animals, Plants, and Articles (Removal and Possession) Ordinance</i> , which is outdated and does not fully comply as CITES legislation. Additionally, the BVI does not have general wildlife conservation legislation to reinforce compliance.

\* For a more detailed discussion, see Lausche (2005).

## ENVIRONMENTAL NGOs (NON-GOVERNMENT ORGANISATIONS)

In the area of the environment, the NGO sector in the BVI has not been particularly vibrant, broadly based, or long-lasting—particularly when compared to non-profit, private-sector conservation organisations seen elsewhere in the region.

In the BVI, a few conservation-focused NGOs evolved in the 1980s and into the 1990s, among them, the **BVI Historical Society** and the **BVI Botanic Society**. However, none have survived as active organisations today and none displayed—when active—a broad environmental agenda. Instead, the programmatic focus was a single “cause” (e.g., the Botanical Gardens) or a single issue (e.g., the preservation of historical and archaeological resources).

One NGO that attempted to take on a more broadly based environmental agenda was the **Association of Reef Keepers** (ARK). Founded in the late 1990s, ARK was dedicated to promoting the conservation and preservation of the marine environment. However, its marine-based focus soon expanded, and the organisation became known not only for its annual coral reef monitoring exercise (Reef Check), but also for its non-partisan voice on behalf of environmental issues that extended beyond the marine sector.

ARK began to take on a variety of environmental activities and programmes which, in larger countries, might have been dispersed among several NGOs. An offshoot of ARK was a subsidiary programme that became known as **Island Erosion**, a collaboration of environmentalists and business sector interests—e.g., building contractors, architects, and engineers—who sought, together, to promote best management practices in construction to reduce soil erosion and sediment run-off.

Both ARK and Island Erosion phenomenon seen in many particularly those staffed they quickly become over-committed, and over-mostly non-operational for Island Erosion as an disappeared.

At about the same time that as an institutional voice for new NGOs emerged: the **Group** (BVIHCG) and the **mental Council** (VIEC).

**BVIHCG** is an association led residents and supported by passionate about the natural resources, history and maintains are threatened by widespread physical development in the Territory (see Mission Statement at [www.bvihcg.com](http://www.bvihcg.com)). Through its website, the organisation provides information about pending development projects in the BVI and about eco-friendly, sustainable solutions.

At the present time, **VIEC** is primarily a single-issue NGO; in this case, its objective is to turn around Government support for a mega-resort development at Beef Island on the eastern end of Tortola. In July of 2007, VIEC initiated legal action seeking judicial review of the Government's decision to grant planning



Photo 8.

Sign outside of the office of the Jost Van Dykes Preservation Society in Great Harbour, JVD.

fell victim to a not atypical small organisations, primarily by volunteers—extended, over-exhausted. ARK has been the last three years, and organised initiative has

ARK was moving off-stage environmental issues, two **BVI Heritage Conservation Virgin Islands Environ-**

by BVI citizens and visitors, all of whom “are preservation of the BVI's culture,” which the group

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approval to the Beef Island Development Project. The case is still pending in the courts, but its outcome could very well become a landmark ruling, not only in the BVI but in the Caribbean.

More recently within this organisational mix, two new groups have emerged: the first in Virgin Gorda called **Virgin Gorda Green Team**, which is affiliated with the Clean Up the World Programme and whose mission focuses on keeping Virgin Gorda and its marine environment clean and, the second, **Green VI**, founded in Tortola to help eliminate solid waste in the Territory.

The environmental NGO in Jost Van Dyke—the **Jost Van Dykes (BVI) Preservation Society**—is new, yet it is also old. In about 1992, Foxy Callwood, a businessman in Great Harbour, launched the idea for a Preservation Society with his wife, Tessa, and other island residents who hoped to preserve the island's unique environment and traditions.

After a period of relative inactivity throughout most of the 1990s, the Society has been revived, with its legal establishment as a BVI not-for-profit organisation taking place in July of 2004. It now boasts an office and projects manager based in Great Harbour and a new community-based research and education programme and project staff funded by the UK's Overseas Territories Environment Programme.

Although focused on the environment of Jost Van Dyke and its satellite islands, the Society may, as it develops, elect to seek assistance from or work collaboratively with other NGOs in the Territory who share similar goals. Its programme objectives may change with time; its leadership may not include the same persons tomorrow as today. Yet, as Island Resources Foundation has learned during its 37-year history in the Caribbean, there is a body of accumulated wisdom already available to help the Society as it grows and changes.

As summarised over a decade ago in a Foundation publication on NGO development in the Eastern Caribbean (Towle, 1995), successful NGOs often demonstrate certain common characteristics, and the JVD Society might focus on these (**Box 2**) as it seeks to strengthen its institutional potential.

### Box 2 Successful NGOs Exhibit ...

- a sound management capacity
- focused leadership, particularly in the early years of development
- ability to adapt to change by growing incrementally
- a limited number of connected projects
- creative funding strategies to meet core costs
- a people-centered growth style