

**WRITTEN QUESTION TO THE PRESIDENT OF THE ECONOMIC DEVELOPMENT COMMITTEE
BY DEPUTY T.J. LE MAIN OF ST. HELIER**

ANSWER TO BE TABLED ON TUESDAY 28th SEPTEMBER 2004

Question

Would the President inform members –

- (a) of the total amount of expenditure that has so far been granted to the proposed vodka manufacturing project, both in the form of direct payment and indirect support via the Jersey Potato Export Marketing Board?
- (b) whether the vodka manufacturing project has received the support of the potato growing industry, and, if so, whether a contract for potato supply has been arranged; if not, how feasible is the project in the absence of such a contract for the supply of potatoes?
- (c) of the total amount of expenditure so far on the creation and maintenance of both the Jersey Potato Export Marketing Board and the Jersey Potato Export Marketing Scheme together with the cost, to date, of defending the scheme in Court, if any?
- (d) of the current status with regard to the Jersey Royal Potato Export Scheme, and the level of acceptance of it by the industry, and what, if any, the effects will be both on the industry and the tax-payer in the event that the States wins the forthcoming Court case, or loses it? and,
- (e) whether the majority of potato exports will be classed illegal in the event that the States win the Court case, and what the likely legal bill will be in the event that the State loses it, and what steps are being taken to minimise any further expenditure relating to this matter?

Answer

- (a) £105,000 in total was granted to the Vodka project. The Jersey Potato Export Marketing Board (JPEMB) has provided administrative support to the project estimated at £15,000.
- (b) Individual potato growers have not been asked if they support the vodka manufacturing project, but the Jersey Potato Export Marketing Board is of the opinion that it does have the required support. No contracts for potato supply have been arranged at this time. The project would not be feasible in the absence of such contracts but the JPEMB will be writing to growers to establish contracts when the project has gained planning permission and private-sector funding arrangements agreed.
- (c) The Scheme was drafted by a local legal practice in 2001 at a cost of £15,000. The JPEMB has been awarded a total £337,700 in operating costs for the years 2002, 2003 and 2004. The costs to date in preparation for, and defending the scheme by a local legal practice on behalf of the JPEMB, are £105,533. The cost to the States as a result of an unsuccessful application to the Royal Court in July 2002 to lift the Stay on the Scheme was £50,000. Additional costs of £120,957 plus EUR 220 have been incurred by the Law Officers' Department. It is known that the two marketing groups involved in the case have spent a considerable amount in legal costs.
- (d) The Scheme remains Stayed at this time. In February 2002, the Jersey Potato Marketing Organisation Limited (JPMO) sought leave to apply for a judicial review of the Scheme, which was granted by the Royal Court. The case was referred to the European Court of Justice for a preliminary ruling on whether the Scheme is contrary to the European Community Law. This case was heard in the European Court on 14th September, but it will be some months before the outcome is known. Subsequent to the application by JPMO, two further companies, Top Produce Limited and Fairview Farm Limited were granted leave to intervene on

the grounds that the Scheme is contrary to the European Convention on Human Rights. This case will be heard in the Royal Court in due course. In July 2002, the States and the Board applied to the Royal Court for a lifting of the stay on the Scheme. The application was refused by the Royal Court.

The current level of acceptance of the Scheme can only be determined by either writing to producers or taking an official Poll to determine whether it is their wish that the Scheme should continue. However it would be impractical to take a Poll until the outcome of the EU case is known and it is not in the power of the Committee to ask for a Poll to be taken. The effect on the taxpayer of winning the case is that the States should be able to recover much of the costs which they have incurred. The effect on the taxpayer of losing is dealt with in the answer to (e).

- (e) If the case is won, the Scheme can be introduced at a time when growers have been given sufficient opportunity to register and comply with the Scheme. The part of the question relating to the likely legal bill has been dealt with in the previous question,

If the court case is lost, it is likely that an order for costs would be made against the States. It is impossible at this stage to indicate what the likely extent of those costs might be, because the figure would depend on whether the case is lost at the European Court of Justice level, or on the remaining human rights arguments, and if on human rights grounds, whether such loss occurs in the Royal Court. The Committee is of course anxious to ensure that public money is spent wisely, and has been committed to this litigation in support of the States decision to adopt the scheme. However, it is expecting to review the scheme with the relevant interested parties in preparation for the announcement of the ECJ decision.