

## British Aggregates Association Press Release - Immediate



### Significant Progress In Aggregates Levy Challenge

The British Aggregates Association (BAA) has successfully overcome two challenges to appeals it has lodged at the EU General Court. The challenges, on admissibility, were made by the EU Commission supported by the UK government.

#### **BAA Director Robert Durward;**

“This has been yet another example of the Commission and the Treasury acting in concert to have our case delayed or struck out on technical grounds. They have tried every trick in the book to avoid having to justify this Levy before a proper court of law but they are fast running out of places to hide.”

The BAA is appealing the 2015 Commission decision that all the AGL exemptions, with the exception of shale aggregate, complied with state aid law despite a great deal of evidence to the contrary. The association is also appealing the 2014 decision by the Commission that the Northern Ireland ‘Aggregates Levy Credit Scheme’ ALCS was compatible with State aid law whilst admitting that the ALCS might not comply with the Treaty on the Functioning of the European Union, TFEU. The Commission claimed that any breach could be rectified retrospectively by limited repayment to UK based importers. A position regarded in legal circles as being ‘highly questionable.’

#### **Robert Durward;**

“Since we first launched our challenge in 2002 we have been encouraged by several judgments which have strengthened our position. One in particular, opens the door to the industry recovering repayment of the Levy in full from 2002 onwards under the ‘Boiron principle. Our challenge to the Phase II Decision on the Aggregates Levy Scheme in Northern Ireland is also well-founded in law. Another win for the BAA on the ALCS would have far-reaching and serious consequences for the NI quarry industry.

“Our industry has experienced a great deal of consolidation over the years with the majors buying up SME operators, often to close them down. Before the introduction of the Levy, this process had all but stopped and the SMEs were staging a comeback. However, family companies are again succumbing to the majors and the Levy has undoubtedly played a part in this process. SME companies with only one or two sites find it difficult to cope with a tax set at such a high level.”

Although the BAA is prepared to see this case through to its inevitable conclusion, it has written to the new Chancellor Philip Hammond restating its preference for a negotiated settlement.

ENDS

**Notes for editors**

1. Given the fourteen year time delay, the BAA has been now been granted expedition by the EU General Court and it is hoped that a final judgment will be made in 2017
2. At £2.00 per tonne plus vat, [almost 50% of the base price in the regions] the Aggregates Levy causes a number of unintended but unavoidable side-effects.
  - SME's no longer able to compete effectively with the multi-nationals due to the conglomerates ability to cross-subsidise. All the major quarry companies are now owned by international cement companies who use cement as a weapon in the marketplace and all have convictions for operating cartels.
  - End users, mostly in the public sector, are now paying over the odds for aggregates due to the lack of SME competition in many areas.
  - Previously saleable by-products being landfilled or sterilising viable reserves.
  - Misreporting of 'recycled aggregates' and public authorities getting ripped off with fake recycled aggregates. Recycled and exempt aggregates being transported further.
  - Increased illegal quarrying with HMRC unable or unwilling to monitor.
  - Slate, clay and china clay [decomposed granite] still have an unfair advantage
  - UK exporting manufacturers (e.g. ground lime) are being damaged because their by-product aggregates are taxed.
  - UK manufacturers of exempt industrial minerals (e.g. Calcium Carbonate powders) are losing out to importers because their by-product aggregates are taxed.
  - UK exporters of exempt aggregates are disadvantaged because their by-products are taxed whereas importers only bring in saleable products.
  - UK concrete products industry being damaged by Levy-free imports.
  - Manufacturing processes with high environmental impacts, steel, slate, china clay, are given state aid to compete unfairly against low environmental impact quarrying.

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