



BRITISH AGGREGATES ASSOCIATION

Press Notice: Immediate: Wednesday 13th September 2006

Aggregates Levy Judgement - No End in Sight for Stealth Tax

The European Court of First Instance (CFI) today dismissed the British Aggregates Association (BAA) legal challenge to the Aggregates Levy under state aid rules.

BAA Director Robert Durward comments;

"This decision means continuing the nonsense of adjacent quarries producing virgin aggregate where one pays the £1.60/t tax and the other does not. However we will continue to campaign to have the levy removed as it is not only bad for the environment but is highly discriminatory in nature."

The CFI judgment would appear to represent a significant shift in policy by moving it away from previous legal precedent set by the European Court of Justice (ECJ), the EU's highest court. According to previous case law, environmental concerns could not justify a difference in treatment between different sectors which had the same environmental impact. This formed a major part of the BAA case. Furthermore, some of the exempted materials such as china clay and slate have an environmental impact which is actually much greater than aggregate extraction. However, today's Judgment suggests that the CFI, the EU's second highest court, now disagrees with this position. This may be wrong as a matter of law and the BAA is presently considering its options. If legal opinion supports the view that the CFI Judgment is not in accordance with the law, then an appeal may be lodged in the ECJ against the decision of the CFI.

Robert Durward;

"It is however encouraging that the whole industry is now more united than ever against this tax. This is a direct result of the BAA's single-minded determination not to let the matter rest"

Ends:

Notes for editors:

1. The British Aggregates Association is the trade body for independent quarry operators and represents 70 companies producing from over 100 sites.
2. The British Aggregates Association's legal challenge against the Aggregates Levy (AGL) was heard at the EU Court of First Instance in Luxembourg on the 13th of December 2005.

3. The association asked the Court of First Instance to find that the original decision by the EU Commission in 2002 to grant State Aid Approval (for the exemptions) was unsafe. Any State Aid approval application which raises doubts about its compatibility with the common market must be subject to "Phase 2 proceedings." This allows any third party, who will be affected by the proposed State Aid, to make representations
4. Not only has the Levy failed to provide any tangible environmental gain, it has produced its own environmental problems. Levy exempt products are now being hauled longer distances and displacing locally sourced materials. This has greatly hampered the quarry industry's ability to deal with its own by-products and there are now growing mountains of secondary aggregates appearing in quarries across the country
5. The use of primary aggregates has not been reduced by the levy. In fact the only reason that the use of virgin aggregate has not actually increased has been the reduction in road building and repair.
6. The CFI Press Release 74/06 and full judgement can be found on <http://curia.europa.eu/en/actu/communiqués/cp06/aff/cp060074en.pdf>

Contacts:

The British Aggregates Association,

PO Box 99

Lanark ML11 8WA

<u>Director – Robert Durward</u>	<u>01555 663 444</u>
<u>Executive Officer – Richard Bird</u>	<u>07776 298 347</u>
<u>Secretary - Peter Huxtable</u>	<u>01433 639 879</u>

ENDS: