Submission by the British Aggregates Association – BAA

The British Aggregates Association is the recognised trade body for independent quarry operators in Scotland, England and Wales. We have eighty member companies who collectively operate over two hundred sites with twenty nine member companies located in Scotland. We are represented on all Regional Aggregate Working Parties, the Scottish Government Minerals Planning Committee and the CBI Minerals Committee.

We have been asked to comment on the proposed devolution of the Aggregates Levy, AGL, to the Scottish Government.

The main points that I wish to bring to the Committee’s attention are as follows;

1. Aggregates are essential\(^1\) to a developed society, they are not a luxury.

2. The Aggregates Levy is one of the most complex taxes on the statute book and is an absolute minefield of exemptions and rebates. I strongly suggest that the Committee acquaints itself with this guidance from HMRC. http://customs.hmrc.gov.uk/channelsPortalWebApp/channelsPortalWebApp.portal?_nfpb=true&_pageLabel=pageVAT_ShowContent&id=HMCE_CL_000506&propertyType=document It is also, even after ten years, still under review including possible changes to the charging regimes of filler for asphalt and binder for pre-cast concrete.

3. The AGL is also circuitous in that the public sector accounts for almost 70% of all aggregates used. In other words, most of the “revenue” to central government comes from local government. Scotland also uses a higher proportion of aggregate than England, because of its demographics, at five tonnes per person per year.

4. The BAA is presently challenging the legality of the AGL in both the EU General Court and the British High Court. Our challenge is based on illegal State Aid being given to competing industries many of which have a much greater environmental footprint than aggregate quarries. (open-cast coal, cement, clay, slate & shale)

5. As we have already won our appeal in the higher Court, the ECJ, we expect a positive outcome within a matter of months. The fact that the Levy may soon be judged illegal is the main reason why it has not been included in the initial handover.

6. If the AGL is judged to be illegal, then it will have to be repaid to the industry. This process offers the prospect of many more years of expensive legal debate.

\(^1\)http://www.bgs.ac.uk/planning4minerals/assets/downloads/86210_P4M_A_Guide_On_Aggregates.pdf
7. The BAA was successful in having the Derogation for Northern Ireland withdrawn by the EU Commission in December 2010.

8. The Levy is not about protecting the environment it is a stealth tax with no link to environmental performance. No relief is given for improving environmental standards, more damaging industries such as coal, slate, cement and china clay are exempt and the environmental footprint of imports is not considered. All aggregate imports are taxed irrespective of environmental standards and all exports are likewise relieved. A local example is the Lafarge (Blue Circle) cement works at Dunbar. Cement was exempted because it was an “internationally traded commodity” although aggregates are also traded internationally.

9. In 2002, a question was tabled in the House of Commons as to how many environmental complaints had been received in respect of sand, gravel or rock quarries. The answer was that no-one knew because such complaints were not centrally registered. However, very few complaints are actually made. Many more complaints are made about open cast coal sites and recycling stations, both of which are exempt from the Levy. It is also recognised that UK recycling plants attract a great deal of complaints about noise and dust and that they are much more dangerous than established quarries.

10. The UK Government continue to claim that the AGL has had a “significant” effect on the market but the figures do not bear this out. Aggregate sales had been in decline since 1990 by around 2% per annum and this trend continued through 2002 until 2007 when sales actually rose. There may have been a slight effect in year one but this was most likely due to forward buying in 2001 to escape the Levy. However the recession has now brought about a reduction of 40% in aggregate sales since 2008.

11. The Levy did not significantly increase recycling as the UK already had levels of recycling well above the European average for construction and demolition waste before the Levy was introduced. Major countries such as Germany and France have recycling rates less than half of the UK and we have a recycling rate of over four times the pan European average:
   a. UK 22%
   b. Belgium 16%
   c. Germany 8%
   d. France 3%
   e. Italy 2%
   f. Spain 0.3%

12. UK Recycling figures have also been artificially inflated by other factors such as local authorities specifying that a percentage of recycled aggregates must be included in their contracts. We are aware of instances where virgin aggregates have been substituted, and at higher prices, due to insufficient recycled aggregates being available.
13. The AGL has also stimulated illegal quarrying by farmers, construction companies and developers.

14. The AGL has also had a negative impact on “Green” projects.

15. It has a particularly negative effect on SME companies who are unable to cross subsidise their by-products and often now have to lose money on these products just to make space in the working area. The Levy has to be paid even if the material is given away. The current recession has resulted in many companies selling materials at a loss but still having to pay the Levy at the full rate.

16. The percentage of the Levy is much higher in Scotland due to the fact that Scottish prices are lower than more affluent areas such as London and the Home Counties.

17. It stimulates imports. Even although imported aggregates are taxed, their by-products can be sold Levy free elsewhere. My own company, based in Lanark, has lost out to Norwegian aggregates being delivered via Leith docks.

18. At present the UK imports almost all of its natural building stone and much of its coal from countries with little environmental control and even less health and safety. Both building stone and coal are exempt from the Levy and many foreign workers are killed or seriously injured in their production. I do not have the figures for building stone but over 6,000 Chinese coal miners are killed every year.

19. According to research carried out by BDS, independent marketing consultants, Effects of the Landfill Tax and Aggregates Levy, published December 2009, the Levy has had no positive environmental impact. “Therefore our conclusion is that the aggregate levy has not met its objectives. Untaxed aggregates have a cost advantage over taxed aggregates. This distorts the market. It leads to higher environmental cost with untaxed aggregates now being economic to be supplied over longer distances.

20. The Aggregate Levy Sustainability Fund, AGLSF was introduced alongside the AGL to return 9% of the levy to local communities that had been affected by quarrying operations. Unsurprisingly, given the high operating standards of the industry, insufficient quarry related schemes were identified. Undaunted, the cash was quickly diverted into other schemes such as a survey into the seas around Scotland. The fund was eventually closed and all the revenue diverted into “Climate Change and Carbon Initiative schemes. In England, DEFRA also used the AGLSF money for other uses.

21. The Finance Minister’s recent budget statement mentioned boosting the construction industry in Scotland. However, building a new Forth crossing

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\(^2\) [www.building.co.uk/news/contractors-face-green-tax-crackdown/3154876.article](www.building.co.uk/news/contractors-face-green-tax-crackdown/3154876.article)
and the Borders Light Railway, under the present regime, could account for up to £10 million of levy going South.

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Notes:
Alex Salmond debates the AGL in Westminster
http://www.publications.parliament.uk/pa/cm200102/cmhansrd/vo020313/halltext/20313h05.htm

BBC report on the effect of the Levy in Scotland
http://news.bbc.co.uk/1/hi/scotland/1869943.stm