Aggregates Levy

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Section Business & Transport Section

The proposal for a new levy to be charged on the extraction of aggregates was first broached by the then Chancellor, Gordon Brown, in the July 1997 Budget.[1] Following research into the environmental costs of aggregate extraction – and discussions with the industry about the use of voluntary measures to improve its environmental performance – Mr Brown confirmed in the 2000 Budget that a levy would be introduced in April 2002.[2] Details on the structure of the levy were published in the 2001 Budget:

> As announced in Budget 2000, **the aggregates levy will be introduced in April 2002 at £1.60 per tonne …** The levy will ensure that the environmental impact of aggregates extraction are more fully reflected in prices and encourage a shift in demand away from primary aggregate towards alternatives such as recycled construction and demolition waste and china clay waste. It will also encourage the more efficient use of all aggregates, greater resource efficiency in the construction industry, and the development of a range of other alternatives including the use of waste glass and tyres in aggregate mixes.[3]

It was anticipated that the new charge would raise about £200 million in first year – with its receipts being recycled through a cut in employers' National Insurance contributions (NICs) and a new 'Sustainability Fund'.[4] Since its introduction the rate of the levy has been increased twice: it is £2.00 per tonne at present, and is due to rise to £2.10 per tonne from 1 April 2011. It is estimated the levy raised £275m in 2009-10.[5] Since the levy's introduction aggregate producers in Northern Ireland have been entitled to an 80 per cent tax credit. In December 2010 the Government was forced to suspend this relief following a ruling by the European General Court that the scheme constituted illegal state aid; it is seeking to obtain approval from the Commission to reinstate it as a state aid for environmental purposes.[6]

This note discusses the introduction of the aggregates levy and its impact on the quarrying sector. Guidance for businesses is available on HM Revenue & Customs' site.[7]

1 HC Deb 2 July 1997 c311
2 HC Deb 21 March 2000 c869
3 *Budget 2001* HC 279 March 2001 pp 118-119
4 HC Deb 29 October 2002 c685
5 HM Revenue & Customs, *Aggregates Levy : Statistical Bulletin*, November 2010
6 HC Deb 27 January 2011 c443W
7 HM Revenue & Customs, *Aggregates Levy : Notice AGL1*, December 2010

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1 Initial consultation (1997-98)

In his first Budget in July 1997, the Chancellor Gordon Brown, set out the Government's priorities in environmental taxation, which included a review of the possibility of charging a tax on quarrying:

> A country equipped for the future should also have a modern tax system based on principle. The tax system sends critical signals about the economic activities that a society wishes to promote and deter … We are determined that our tax system and economic policies as a whole encourage the good and discourage the harmful. The extraction of aggregates - including stone, sand and gravel - involves significant environmental costs and damage to the landscape, which may go beyond that recognised in the scope and level of the landfill tax. Too little is also being done to discourage water pollution. The environmental case for charges on polluters needs to be examined carefully. After a period of consultation, I will return with any proposals in those two areas in my next Budget.[8]

At this time, the Labour Government published a statement of 'environmental principles' - a wider statement of intent on the use of 'green taxes':

> The Government's central economic objectives are the promotion of high and sustainable levels of growth and high levels of employment. By that we mean that growth must be both stable and environmentally sustainable. Quality of growth matters; not just quantity. Delivering sustainable growth is a task that falls across government. It will be a core feature of economic policy under this administration. The Treasury is committed to that goal. How and what governments tax sends clear signals about the economic activities they believe should be encouraged or discouraged, and the values they wish to entrench in society. Just as work should be encouraged through the tax system, environmental pollution should be discouraged.
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> To that end, the Government will explore the scope for using the tax system to deliver environmental objectives - as one instrument, in combination with others like regulation and voluntary action. Over time, the Government will aim to reform the tax system to increase incentives to reduce environmental damage. That will shift the burden of tax from "goods" to "bads"; encourage innovation in meeting higher environmental standards; and deliver a more dynamic economy and a cleaner environment, to the

[8] HC Deb 2 July 1997 c 311

> benefit of everyone. But environmental taxation must meet the general tests of good taxation. It must be well designed, to meet objectives without undesirable side-effects; it must keep deadweight compliance costs to a minimum; distributional impact must be acceptable; and care must be had to implications for international competitiveness. Where environmental taxes meet these tests, the Government will use them.[9]

The possibility of imposing a tax on quarrying was discussed in a significant report on environmental taxation, published by the Institute for Public Policy Research in 1996. The authors argued that "green taxes are an effective tool of environmental policy … [and] an efficient way for governments to raise money."[10] On the question of a quarrying tax, it was thought that a new tax charge would be unlikely to have much of an effect on demand, implying that it might be a good innovation from the perspective of the Exchequer:

> The proverbially useless job-creation scheme is one in which some people dig holes in the ground and others come along and fill them in again. This is being done every day, on a macro-scale, with the quarrying and waste disposal industries (often the same companies operate in both sectors). Aggregates companies create the holes by extracting rock, sand and gravel, which they then sell very cheaply. Because primary aggregates are so cheap, there is little demand for recycled ones. So demolition waste – rock, sand, gravel – is mostly sent to landfills, to fill in the holes. During this pointless cycle, some people get very rich, and many more suffer serious disamenity. There is damage to landscapes, often in beauty spots, resulting from quarrying.
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> According to the Council for the Protection of Rural England (CPRE) 'an area three times the size of the Isle of Wight is currently under mineral working – this is expected to double at current rates of expansion.' Footpaths and public access are lost. Traffic is generated, often in previously-quiet areas, and there is lots of noise and dust for nearby residents. Quarrying can also result in a loss of aquifer capacity, with consequent reduction in water supply, and surface water pollution.
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> The construction industry needs a reliable supply of aggregates. But there is a plentiful supply of secondary aggregates which could reduce – though not eliminate – the need for new quarrying. Annual demand in the UK is currently running at around 300 million tonnes a year of primary aggregates; this is predicted to grow to 400 million by 2011.[11] There is 70 million tonnes of construction and demolition waste every year. Little of this is re-used, partly because landfilling for construction waste is very cheap and partly because the market price for primary aggregates is so low.
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> A package of measures to reduce quarrying and increase the use of secondary aggregates would need to include a quarrying tax to make primary aggregates more expensive, a landfill tax to make the disposal of construction waste more expensive, planning restrictions on new quarries, particularly such environmental monstrosities as the coastal 'superquarries' planned for Scotland, and changed specifications, especially for roads, to of secondary aggregates easier. An end to widespread road-building, which would be part of any move to a more sustainable economy, reduce demand for primary aggregates.
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> Even with all these measures in place, it is unlikely that the demand for aggregates would be very responsive to price. The consultancy EOTEC predicted that a 50 per cent tax would reduce demand by 16 per 100 per cent, and a 100 per cent tax by 30

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9 HM Treasury press notice, *Tax measures to help the environment*, 2 July 1997

10 Stephen Tindale, Gerald Holtham, *Green tax reform: pollution payments and labour tax cuts*, IPPR 1996 p i

11 DoE, *Sustainable development: the UK strategy*, Cm 2426 1994

per cent.[12] There is therefore scope to raise a lot of money, which should be seen as part of the general Exchequer.[13]

Following the July 1997 Budget research was initiated on the environmental costs attached to quarrying, including damage to the landscape.[14] In March 1998 the CBI published a paper on environmental taxes which was highly critical of the proposal for an aggregates tax:

> The proposal for a quarrying tax does not meet our criteria for a good environmental economic instrument on any count. It would have a negligible environmental impact yet would raise industry costs, so harming other sectors of the economy and trade competitiveness. Existing regulation is adequate to deal with the externalities that quarrying generates. Future controls should be placed at a local level to allow communities to provide their own assessment of the costs and benefits of quarrying in their area. Also, given the general nature of the externalities involved, there is no justification in singling out quarrying as a taxation target over and above all other industries which create noise and a loss of local amenity. Market-based instruments are not appropriate to the quarrying sector, except when local authorities decide to raise the cost of quarrying permits to reflect their evaluation of the externalities.[15]

In the March 1998 Budget the Labour Government confirmed that its initial research had been completed which indicated "that there are environmental costs attached to quarrying which a tax might capture" though "further work is needed … both to build on the initial research findings, to consider the range of options for addressing these costs, and to examine how a tax might work."[16] In June HM Customs & Excise published a consultation paper on the design of a possible aggregates tax; a summary was provided in a press notice:

> The paper asks for views about the practicalities of a new tax on aggregates (stone, sand and gravel) used in construction and road building. The Chancellor will consider the results of the consultation before the 1999 Budget, but any tax would be unlikely to come into force before 2000. Coal, clays, specialist minerals, and recycled material would most likely not be taxed … The consultation paper issued by Customs today looks at the practicalities only. This document contains a preliminary Compliance Cost Assessment (CCA). A full CCA would be completed if a decision for a tax is taken by the Chancellor. Operators of sites producing aggregates would be liable to register for the tax. Some importers might also be required to register as any new tax would most likely apply to material brought into the country.[17]

The following month the *Financial Times* reported that the Government was highly likely to proceed with a tax:

> The industry is a soft touch for a government keen to garner extra tax revenues. Although planning constraints and public opinion have forced producers to reduce the environmental impact of their business, aggregates extraction inevitably destroys - if only temporarily - large areas of countryside and generates dust, noise and heavy traffic ... According to Lilli Matson, head of transport and resources at the CPRE: "A tax

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[12] EOTEC, *Review of the sensitivity of demand for primary aggregates to environmental costs*, 1991
[13] *Green tax reform*, 1996 pp96-97
[14] *Pre-Budget Report* Cm 3804 November 1997 p60
[15] CBI, *Coming clean: using market instruments to improve the environment*, March 1998 p16
[16] HM Treasury Budget press notice HMT 13, 17 March 1998
[17] HM Customs & Excise press notice 12/98, 15 June 1998. Responses were invited up to 31 August 1998. The department was merged with the UK's other revenue authority, the Inland Revenue, to form HM Revenue & Customs in 2005.

> would send a message to the industry that there is an environmental cost in what they do . . . at present there is no constraint on supply and prices are too low to encourage efficiency." Simon Vivian, chairman of the Quarry Products Association and chief executive of ARC, the main UK subsidiary of Hanson, claims such a tax would hold few fears for producers. He said: "We would simply pass the cost on to the customer."
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> So why is the QPA lobbying hard for tighter environmental regulation as a substitute for the tax? Mr Vivian conceded: "Long-term the tax would push up the overall cost of construction, which means there could be less of it in future." But Robert Laslett, a consultant at the research company London Economics, said: "I do not think aggregates costs are enough of a factor in construction for the imposition of a tax to affect output." Aggregates companies would prefer not to subject his theory to a practical test. Sales have suffered a long, bruising slowdown. In 1989, at the peak of the last construction boom, UK output was 300m tonnes a year. It slumped to 210m in 1991, edged back to 250m in the mid-90s, but last year slid to 220m, following cuts in the roadbuilding programme …
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> Company bosses believe the tax, if imposed, would be set not at 100 per cent, but at 20-40 per cent of the price of a tonne of aggregate. At such levels, they doubt the levy will stimulate recycling, which they believe is subject to natural limits. For while material reclaimed from road shaving and demolition is fine for foundations, it is no use for many higher specification jobs, they say. If they are right, the success of any tax, whatever its level, in achieving the goals of the environmentalists may be limited. But higher costs almost invariably spur creativity. If a tax is introduced, the relationship between supply and demand may also prove more flexible than producers suppose.[18]

In April 1999 HM Customs & Excise published a summary of responses to the paper, from which the following overview is taken:

> While some people gave opinions on the practicalities of administering an aggregates tax, others also viewed the consultation as an opportunity to comment on the rationale for the tax.
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> In respect of the scope of the tax, we found that the question of what "aggregate" actually is appeared to be many sided, and viewpoints varied considerably. It soon became clear that a use-based definition of the scope of the tax would prove problematical, as the intended use for the product could change after the tax point had passed. Relief from the tax for particular uses appeared not to pose such a problem.
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> As was suggested in the consultation document, there were also many differing views on where the line between primary and secondary aggregates is drawn, if indeed it can be drawn at all. No consensus was reached on a distinction between the two terms. Despite this, people were keen to express an opinion in respect of the taxable status of each of the categories. People tended to argue for the exemption from the tax of secondary materials (such as low specification aggregates and by-products of industrial minerals), and were in favour of taxing only primary (virgin) aggregate.
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> There was also, not surprisingly, a lobby for the exemption of recycled aggregate from the tax. There was, again as we expected, a strong lobby for the relief of silica sand from the tax. However, there was also - and we did not raise this issue in the consultation document - an equally strong lobby for the exemption of lime and industrial uses of limestone. These arguments were based on the fact that silica sand and limestone are used in industry for their chemical properties rather than as

[18] "Mining for extra taxes at the face of the quarry", *Financial Times*, 1 July 1998

aggregates. On the other hand, many people felt it unfair to restrict the scope of the tax to aggregates when the effects of the extraction of other materials (eg. industrial minerals), were equally detrimental to the environment, but would not fall within the scope of the tax. Counter-arguments used were that many of the industrial minerals had no substitute or alternative, and that recycled materials were not an option as they were not pure enough for their intended purpose - e.g. glass making.[19]

Of the organisations which responded, the Institute of Directors published its own report on the aggregates tax, welcoming the Government's approach in consultation, but arguing that the environmental case for a tax was not proven:

> Such a tax should only be introduced if there is a proven environmental case for it that significantly outweighs the costs in terms of economic distortion, disruption to the aggregates industry and administrative burdens. The environmental case is not yet proven. Having said that, we recognise that this consultation is only about how a tax ought to work should there be one. We strongly support the approach to consultation that this implies: work out the practical details *before* making the basic policy decision on whether to have a tax.[20]

Discussions continued over the summer, and in the *Pre-Budget Report* in November 1998 the Labour Government noted that voluntary measures adopted by the industry might obviate the need for a tax.[21] In its response to the *Pre-Budget Report* the Environmental Audit Committee discussed the issue at some length, noting the potential conflicts of interest that a levy posed for the Government:

> In response to a request from Government Ministers the Quarry Products Association put forward, in November 1998, a ten-point plan to deal with the environmental impacts of quarrying. Under this plan members of the association, representing companies accounting for 90 per cent of UK aggregates output, would agree to implement environmental management systems; undertake environmental assessments for all new operations; implement the undertaking to review aspects of their activities within the National Parks; and a number of other initiatives. The Economic Secretary told us that the Government is looking at this package to see whether it would produce benefits at least equal to or possibly greater than the benefits that might be associated with the tax.
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> **It is encouraging that an industry can produce such a significant package of environmental measures in the face of the threat of taxation, but we would urge the Government to address the matter with care.** We note the Government's particular conflicts of interest in this issue — with the Department of the Environment, Transport and the Regions holding the responsibilities of sponsor of the industry and protector of the environment, and the Government as a whole being a significant user of aggregates. In our view this is a classic example of the difficulties of achieving sustainable development and it will be a significant test of how the Government appraises competing demands, including the need to conserve this country's natural resources for future generations.[22]

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[19] HM Customs & Excise*, Consultation on a potential aggregates tax: summary of replies*, April 1999 p4. In total Customs received 199 responses from a wide range of industries and environmental groups.
[20] IoD, *Consultation on a potential aggregates tax*, 11 August 1998 p2
[21] Cm 4076 November 1998 p82
[22] *The Pre-Budget Report 1998*, 16 February 1999 HC 93 1998-99 para 43

2 Discussion of voluntary measures (1999-2000)

In the March 1999 Budget the Labour Government announced that it would pursue the possibility of an enhanced package of voluntary measures with the industry. If this proved successful, it was anticipated that a phased implementation over 3 years could begin by January 2000, with independent annual reviews and a final assessment no later than the end of 2002; if not an aggregates levy would be introduced.[23] Further details on the 'enhanced voluntary package' were given when Ministers met industry representatives a few days later,[24] while draft legislation for a levy was published alongside the Finance Bill in April.[25]

In July the Quarry Products Association submitted a revised package of voluntary measures.[26] Trade organisations that were involved in this consultation process included the British Aggregates Association, the British Cement Association, the Confederation of British Industry, and the Silica and Moulding Sands Association, as well as the Quarry Products Association itself. Views were also received from representatives of the coal and ceramic clay producers.[27]

At this time the Labour Government published a final report commissioned from the consultants London Economics on the environmental costs of quarrying.[28] The study estimated how much people valued avoiding the adverse environmental effects of quarrying for construction aggregates (rock, sand or gravel) both in their locality and in landscapes of national importance. From the results of the surveys, national estimates were calculated for the average amount that people are willing to pay for the environmental benefits obtained from early enclosure of a quarry. The national average, weighted by the type of output, was calculated to be £1.80 per tonne. A summary of the report was given in a press notice:

> In August 1998 DETR commissioned London Economics to carry out research to value the external environmental costs and benefits associated with the supply of aggregates for the UK construction industry using contingent valuation surveys and building on the first phase of this project, which was published in April 1998 …
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> Two surveys were carried out. the first, a local survey assessed the value placed by people on the local effects of quarrying - noise, dust, visual intrusion and loss of amenity. This covered almost 10,000 people living within 5 miles of representative hard rock and sand and gravel sites. The second, a national survey, assessed the value placed by the public at large on the environmental costs of quarrying in national parks. The national parks were chosen as representing areas of countryside designated for special protection from the effects of development because of their special character and high landscape value.
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> Both surveys were designed to ensure that the estimates of costs were not overstated following criticisms of the method used in the smaller Phase 1 work published in April 1998. The results of the additional research have confirmed that significant adverse

23 HM Treasury Budget press notice HMT 8, *Reducing the environmental impact of quarrying*, 9 March 1999
24 DETR press notice 244, 16 March 1999
25 HM Customs & Excise press notice 16/99, 30 April 1999. A second draft was issued in June 2000 which Customs viewed as being in a broadly finalised form.
26 *Pre-Budget Report* Cm 4479 November 1999 p110
27 HC Deb 24 July 2000 c392W
28 DETR, *The Environmental Costs and Benefits of the Supply of Aggregates: phase 2*, August 1999. Interim results for this research were published in the March 1999 Budget (DETR press notice 213, *Research shows significant environmental costs to quarrying*, 9 March 1999).

> environmental impacts are generated by the extraction of aggregates. These include noise, dust, visual intrusion and loss of amenity. On the cautious assumptions that the national survey results are relevant only to National Parks and Areas of Outstanding Natural Beauty (AONBs), and that non-residents do not place any value on the adverse effects of quarrying in any other area, the sum total of the externalities identified by the research is estimated to be about £380 million per annum. This compares to an estimate of about £250 made using similar assumptions at time of the Budget.[29]

In light of this research the Government noted in its *Pre-Budget Report* it was "minded to introduce a tax" in the 2000 Budget, unless the industry was able to "further improve" on its package of voluntary measures.[30]

3 The March 2000 Budget – decision to introduce the levy

Further discussions with the industry followed. Apparently the industry made delivery of the voluntary package "conditional on undertakings from the Government on procurement policy which were unacceptable," and as a consequence the Government announced in the March 2000 Budget that a levy would be introduced from 1 April 2002:

> The levy will apply to virgin sand, gravel and crushed rock which is subject to commercial exploitation in the UK - including that dredged from the seabed within UK territorial waters. It will be charged at £1.60 per tonne.
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> The levy will not apply to recycled aggregates, or to certain secondary aggregates such as those derived from reworking old spoil heaps. To protect competitiveness, exports will be relieved and imported aggregates will be subject to the levy when they are first sold or used in the UK. There will be a range of exemptions/reliefs for certain rocks (coal, lignite, slate, shale) and industrial minerals (such as metal ores, gypsum, fluorspar); for the production of lime or cement from limestone and for silica sand or limestone used in certain agricultural and industrial processes (such as glass-making and fertiliser production).
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> To further the Government's aim of shifting the burden of taxation from "goods" to "bads", the revenues from the levy will be fully recycled to the business community through a 0.1 percentage point reduction in employers' National Insurance contributions (NICs) and a new Sustainability Fund.[31]

The cost of cutting the rate of employer NICs by 0.1 percentage points was estimated to be £370m in 2002-03, rising to £400m in 2003-04.[32]

The compliance costs of the new levy were estimated in an impact assessment published by Customs alongside the 2000 Budget; an extract is reproduced below:

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[29] DETR press notice 673, 8 July 1999. This approach is discussed in a 2002 review of the Government's experience with green taxes: HM Treasury, *Tax and the environment: using economic instruments*, November 2002 p19. This is available at: http://www.hm-treasury.gov.uk/d/adtaxenviron02-332kb.pdf

[30] Cm 4479 November 1999 p110

[31] *Budget 2000* HC 346 March 2000 p121

[32] Budget 2002 HC 592 April 2002 p174

Compliance costs of an aggregates levy

The aggregates market is dominated by 7 (soon to become 5) companies who account for approximately 80% of aggregates supply. At the other extreme there exists in excess of 350 companies producing small amounts of aggregates. An estimated profile is as follows:

1. The major operators Seven companies account for 80% of the aggregates market. This equates to 80% of 250 million tonnes (200 million tonnes) - an average of 30 million tonnes per company.

2. Other large operators Four to five companies with 3% of the market (7.5 million tonnes)

3. Medium operators Ten to twenty companies accounting for up to 1% of the market (2.5 million tonnes)

4. Small operators Over 350 companies mainly producing less than 200,000 tonnes of aggregate per annum.

Costs to these businesses of complying with an aggregates tax

From the few responses received to the consultation document and trade workshop, estimated average compliance costs are summarised as follows. The figures also take into account the previous compliance cost estimates for Landfill Tax.

a) Start Up costs Initial costs for medium sized companies lay in the range of £10,000 - £20,000. This would appear to be consistent with Landfill Tax estimates where the range for large operators was £25,000 to £50,000. It is likely that given this, the major aggregates operators would be in excess of this figure, given their multi-site operations and associated costs, perhaps in the region of £50,000 - £100,000. For the small operators, the start up costs are likely to be similar to Landfill Tax - approximately £750. Some companies cited figures in excess of these but Customs considered some of these to be unrealistically high.

b) Ongoing costs From information received from the trade and from a consideration of the general issues with Landfill Tax the ongoing compliance costs for traders are likely to be in line again with Landfill Tax. This means costs of approximately £1500 for small operators rising to anything up to £10,000 for large operators. Costs for the major operators may exceed this, although Customs again considered some of the figures quoted to be unrealistically high.

c) Total Costs This analysis suggest total set up costs to the industry of approximately £1.2 million - equivalent to less than 0.5 pence per tonne extracted. Total recurring costs are estimated at approximately £750,000 per annum - equivalent to an average 0.3 pence per tonne extracted.[33]

The Government did not publish estimates of the expected impact of the levy on employment in the aggregates sector, as the then Financial Secretary, Stephen Timms, explained in long answer to a PQ in July 2000 (*emphasis added*):

The aggregates levy is based on independent research which verified that there are significant environmental costs associated with quarrying … The Government decided to address these costs through the introduction of the aggregates levy. It will be introduced at a uniform rate in order to keep it simple and to give a clear signal to purchasers of primary aggregates to use more sustainable materials. It will reward quarry operators who invest in equipment for recycling, and ensure that all users of

[33] "Annex C - Summary of results on compliance costs from consultation", *Aggregates levy: Regulatory Impact Assessment*, 21 March 2000

aggregates are taking responsibility for the costs that the production of their inputs imposes on the rest of society. This is consistent with the polluter pays principle.

There would be a number of practical difficulties with a levy which attempted to differentiate between quarries with different environmental performance. These relate to assessing compliance, defining environmental performance, the treatment of imports, EU state aids rules and UK competition policy. A uniform levy was therefore considered to be the most viable option. All of the revenues raised from the levy will be recycled back to business through a cut in employer National Insurance Contributions (NICs) and a new ‘Sustainability Fund’ aimed at delivering local environmental benefits. *It is not possible to say precisely what the effect of the levy, the cut in employer NICs and the Sustainability Fund will be on the aggregates and construction industries, since this will depend, amongst other things, on future employment trends and the degree to which firms switch to recycled materials.*[34]

Similarly, the Government did not make an estimate of levy’s impact on prices as “this will be dependent on the commercial decisions of aggregate suppliers and purchasers,”[35] though the regulatory impact assessment published in March 2000 made some comments on the potential impact on demand of setting the levy at £1.60:

The levy will encourage purchasers of aggregates to substitute towards using recycled aggregates. There will therefore be a reduction in output of primary aggregates. Using the short run elasticities produced by ECOTEC for the Quarry Products Association in 1998, a best estimate of the impact of a £1.60 levy on the demand for primary aggregates would be a reduction of around 10%, or approximately 25 million tonnes. These estimates are subject to a wide margin of error. Some of this demand would be replaced by recycled and secondary aggregates, with offsetting benefits for firms which supply those products (often the same firms which produce primary aggregates). The relatively low responsiveness of demand to changes in the price implies that the industry would be able to pass on much of the likely impact of the levy on to purchasers of aggregates, limiting the impact on profit margins in the aggregates industry.[36]

4 Implementation of the levy (2001-02)

In the 2001 Budget the Labour Government confirmed that legislation to introduce the levy from 1 April 2002 would be included in the *Finance Bill* that year. Details of the new charge were set out in a Budget Notice:

Who is likely to be affected?
Anyone commercially exploiting aggregate in the United Kingdom. In most instances this is likely to be the operator of the site where the aggregate is extracted, although under certain circumstances it could be the owner of the aggregate. Anyone importing aggregate from outside the UK and agreeing to supply it or using it for construction purposes.

General Description of the measure
The levy will be charged at a single flat rate of £1.60 per tonne. The basis for VAT will be the commercial value of sales inclusive of aggregates levy, in line with existing VAT

[34] HC Deb 24 July 2000 cc 484-5W
[35] HC Deb 26 February 2001 c 516W
[36] *Aggregates levy: RIA*, 21 March 2000 para 34-35

law. Aggregates levy will apply to any sand, gravel or crushed rock extracted in the UK or its territorial waters, or imported into the UK. The aggregate will become liable to the levy when it is commercially exploited. In practical terms this will mean the earliest of:

- physical removal from the site where it was extracted (except when it is moved to another site which is registered in the same name as the originating site);
- sale to another person; use for construction purposes;
- mixing with anything which is not chargeable aggregate or water.

The levy will not apply to other quarried or mined products, such as:

- coal;
- clay, shale and slate;
- metals and metal ores;
- gemstones or semi-precious stones; and
- industrial minerals.

Blocks of stone ("dimension stone"), used for paving, facing or repairing buildings, etc will be outside the scope of the levy. Limestone used for the production of lime or cement will be exempt from the levy. Following further consultation on the draft legislation, any mineral used in prescribed industrial or agricultural processes (such as glass making or fertiliser manufacture) will be relieved.

Also, as a result of consultation, there will be exemptions for:

- any aggregate necessarily arising from the dredging of marine navigation channels and inland waterways, road construction and building construction;
- the spoil or waste from, or other by-products of, any industrial combustion process or the smelting or refining of metals;
- offshore drill cuttings;
- excavation of highways for utility work.

Exports of aggregate will be relieved, while imports of aggregate will be taxed on their first sale or use in the UK. There will be provision for relief from aggregates levy on sales that customers have not paid for (bad debt relief). In these circumstances the aggregates levy will have to be shown separately on the sales invoice or on a separate aggregates levy invoice.[37]

Following confirmation that the levy would be introduced, the Quarry Products Association proposed that at some future stage a lower rate of levy should be set for quarries that generate lower environmental costs – or so called 'green quarries'. The Government's position on the issue was set out in *Budget 2001*:

> The Government is attracted to this idea in principle, but previous analysis has suggested that there would be a number of practical difficulties with a differential rate. These relate to assessing compliance, defining environmental performance, the treatment of imports, and UK competition policy. However, the Government will continue to explore options for a differential rate with interested parties which overcome these problems.[38]

Provisions to implement the levy were introduced in the *Finance Bill 2001*;[39] all of these provisions were taken on the first day of the Bill's Committee stage on the floor of the House

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37 HM Customs & Excise Budget Notice 102/01, 7 March 2001

38 *Budget 2001* HC 279 March 2001 p 119

39 These provisions are now contained in ss16-49 and schedules 4-10 of the *Finance Act 2001*. After its introduction, 488 businesses registered to pay the levy (HC Deb 9 May 2002 c341W).

on 23 April 2001 (cc 41-139), and agreed to unamended. David Heath MP put down a new clause to introduce a lower levy rate for 'green quarries' which was debated at the Bill's Report stage on 9 May 2001; on this occasion Stephen Timms, then Financial Secretary, set out the Government's position:

> We announced in the Budget that we are attracted to the idea of differential rates of aggregates levy for green quarries. We are exploring with a variety of interested parties options on how that might be achieved, but as I have pointed out several times, significant practical problems remain--not least the definition of a green quarry. We need to know how those issues can be overcome in a practicable and workable way before we introduce legislation to give effect to that idea. When we have a workable scheme, we shall legislate.[40]

In the event the new clause was withdrawn in the light of the Government's opposition.

Nevertheless the Conservative party remained opposed to the tax, arguing, in its Business Manifesto for the June 2001 General Election, that "this tax will do nothing for the environment … it will simply make the British construction industry less profitable and the UK economy less competitive."[41] The Liberal Democrats supported the new levy, but suggested that a rebate scheme should be introduced to ensure that the tax met its environmental objectives. Edward Davey MP set out the party's position during the debate at the Committee stage of the Bill – when an amendment similar to that moved at the Report stage to introduce a lower levy rate for 'green quarries' was debated:

> The Liberal Democrats believe that the acceptability of the aggregates levy might live or die by whether an environmental protection scheme and a rebate scheme are incorporated in the provision at the same time. That is what the Government promised. Indeed, in the Red Book of March this year, they reiterated the promise that the rebate scheme would be introduced at the same time as the levy. Yet we are faced with a Bill that contains no such scheme … Time and again, Governments - Conservative Governments, and the current Labour Government - have introduced environmental taxes saying that they will give the money back, and have then not fulfilled the pledge. That is indeed very damaging to the cause of the environment. It undermines the faith of consumers, both individual and corporate, who, when they hear future Governments talk about environmental tax, will think, "Oh yes - here comes another revenue-raising measure." It also undermines the whole case for environmental taxation, which is very strong if the policy is implemented properly.[42]

The Labour Government returned to the issue of 'green quarries' in the 2001 *Pre-Budget Report*: in the report, it stated that, "following informal discussions with the industry and other stakeholders, the Government has decided not to develop a differential rate scheme at the current time because of the difficulties in assessing environmental performance accurately and the prospect of setting up perverse incentives."[43] The issue does not appear to have been discussed since then.

A second issue addressed in the 2001 *PBR* was the particular position of the quarrying sector in Northern Ireland. In the report the Labour Government stated that it was "minded to phase in the levy for aggregate used in processed products in Northern Ireland" subject to

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[40] HC Deb 9 May 2001 c 194
[41] Conservative Party, *Common Sense for Business*, May 2001 p 10
[42] HC Deb 23 April 2001 cc 57-58
[43] Cm 5318 November 2001 para 7.74

EU state aids approval.[44] This was because producers of processed aggregate products (such as precast concrete) in Northern Ireland would be "at greater risk of increased international competition than their mainland counterparts, because of the land boundary with the Republic of Ireland."[45] The 2002 Budget confirmed that the levy would phased in over a period of five years in Northern Ireland, subject to EU state aid approval,[46] and in 2004 it was announced that the scheme would cover quarry operators in Northern Ireland up until 31 March 2011, provided they signed up to certain environmental improvements.[47] The scheme was discontinued in December 2010, being subject to a successful legal challenge that it constituted illegal state aid – this is discussed in more detail in the last section of this note.

The 2001 *PBR* also set out a number of technical changes to the scope of the levy: of these the most important concerned the extension of the levy to uncrushed rock, as this aggregate may be produced without being crushed.[48] Other minor changes to the scope of the levy were announced just prior to the 2002 Budget.[49] Finally, in December 2002 the Government consulted on how waste extracted alongside aggregates might qualify for relief, though the following year it announced that it would not pursue this idea.[50]

5 The Sustainability Fund

When the aggregates levy was first proposed, the Labour Government stated that receipts from the new tax would be recycled, through a cut in the rate of employers' NICs and a new fund to promote alternatives to virgin aggregate and reduce the environmental impact of aggregate extraction. A consultation on this new 'Sustainability Fund' was launched in August 2000;[51] the Treasury published its conclusions to this exercise in November that year:

> All of the comments received supported the idea of setting up a Sustainability Fund and a majority of responses suggested that the primary aim of the Fund should be to reduce the amount of primary aggregate extracted, overcome market barriers and promote increased use of alternative materials …
>
> A number of respondents indicated that the Fund should not be used to support activities which are properly the responsibility of the quarrying industry. Research into more sustainable construction practices and promoting increased biodiversity, were also highlighted as priorities for the Fund. Some respondents also thought that the Fund could ensure that information on best practice within the construction and aggregate extraction industry was made available through published journals and the

44 Cm 5318 November 2001 para 7.72

45 HC Deb 10 December 2001 c 687W. In December 2001 the Northern Ireland Affairs Committee recommended the levy should not be introduced until "a fully-informed decision has been reached as to its effects" (*First report* 5 December 2001 HC 333 2001-02 p vi).

46 HM Customs & Excise Budget Notes CE23, 17 April 2002. State aids approval was confirmed later that month: HM Customs & Excise press notice PR29/02, 24 April 2002.

47 HC Deb 11 May 2004 c8WS. The relief is set at 80% of the full rate from 1 April 2004.

48 HM Customs & Excise Business Brief 17/2001, 28 November 2001

49 HC Deb 12 March 2002 cc 967-8W. HM Customs & Excise Business Brief 08/2002, 27 March 2002. These changes were debated on 20/25 June 2002 at the Committee stage of the Bill (SC Deb (F) cc 500-523). Secondary legislation was also laid to provide for the levy's administration (SI 2002/761; SI 2002/4027).

50 HM Customs & Excise Business Brief 32/2002, 9 December 2002; *Pre Budget Report* Cm 6042 November 2003 para 7.66

51 HM Treasury press notice 99/00, 25 August 2000

> Internet. A large number of respondents also felt that the effectiveness of the Fund could be measured against defined criteria. A number of respondents suggested that providing support for environmentally friendly quarrying practices and local community projects were of a lower priority as these activities could be seen as the proper responsibility of the quarry operators.[52]

In November 2000 the *Pre-Budget Report* stated £35 million would be allocated to the new Sustainability Fund", and the Government would "hold discussions with the devolved administrations on whether there is scope for setting up a UK-wide Fund with shared objectives that maximise the environmental benefits of the Fund and complements the objectives of the aggregates levy.[53] In turn the Department for Environment, Food & Rural Affairs (DEFRA) consulted on the use of the fund in England, and in April 2002 the then Environment Minister, Michael Meacher, announced the conclusions to this exercise:

> The … Aggregates Levy Sustainability Fund will reduce damage to the environment from extracting aggregates such as sand, stone and gravel used in construction by:
>
> - Improving areas where aggregate extraction has taken place.
> - Helping to reduce demand for primary materials by research into alternatives, and encouraging recycling and re-use of aggregates through WRAP (Waste and Resources Action Programme)
> - Promoting new methods for extracting and moving aggregates to reduce environmental damage. …
>
> The fund is financed by the aggregates levy, which came into effect on 1 April 2002. It will run for two years initially - £29.3m will be available each year. The funds will be distributed through the Countryside Agency, English Heritage, English Nature, WRAP, DTI's Construction Innovation and Research Management Programme, DTLR's Clean Up programme and Freight Facilities Grant. Using existing programmes will make best use of expertise, ensure funds are used quickly and reduce administration costs.[54]

In September 2003 DEFRA completed a review of the Fund which found that "there are strong economic arguments to support the continuation of the Fund as a targeted intervention to address the environmental costs of aggregates extraction." In the 2003 *Pre-Budget Report* it was confirmed that the Fund would "be continued for a further three years with the current level of funding, with a review to be carried out in the final year."[55] Since then the size of the UK Fund continued to be set at around £35m a year, roughly equivalent to 10% of the receipts from the aggregates levy since 2003.[56]

Following the Spending Review completed by the new Coalition Government in October 2010, the department announced that the Fund would be discontinued from March 2011.[57] In the wider context of public expenditure cuts, the decision has not been widely reported, though the Government has been asked about its reasons for ending the Fund:

> **Martin Horwood:** To ask the Secretary of State for Environment, Food and Rural Affairs what recent assessment she has made of the Aggregates Levy Sustainability Fund; and if she will make a statement.

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52 *The sustainability fund: summary of responses to the consultation*, November 2000

53 *Pre-Budget Report* Cm 4917 November 2000 p 135

54 DEFRA press notice 136/02, 11 April 2002. Responsibility for spending their own shares of the Fund was devolved to the Scottish, Welsh and Northern Ireland authorities (Cm 5318 November 2001 p133).

55 Cm 6042 November 2003 para 7.68

56 HC Deb 2 June 2008 c709W

57 A statement to this effect was made on the DEFRA site.

Richard Benyon : An independent evaluation of the Aggregates Levy Sustainability Fund (ALSF) programme of work for the years 2008-11 was recently carried out by the in-house policy resource unit. Overall, the evaluation was positive in that the programme delivered against its objectives and did provide value for money. The evaluation can be viewed on the DEFRA ALSF web pages at:
http://www.defra.gov.uk/environment/quality/land/aggregates/

However, during the spending review, and against other departmental priorities, DEFRA concluded that the ASLF did not represent a core activity for the Department, and, therefore, funding could not continue beyond the current financial year. This decision should not detract from the excellent work that has been undertaken by delivery partners, and for which the Department is very grateful.[58]

In the light of the Government's decision the authors of the evaluation study were asked to reflect on the value of the scheme; in this short addendum to their report, the authors noted that there were risks to making this type of funding open-ended:

[The Fund's] nine-year run of fairly secure funding, particularly those periods where funding has been provided on a three-year basis, has been a major factor in the level of the Fund's achievements, because it has facilitated long-term sustained investment in particular areas and generated confidence throughout the relevant communities. ... there is a risk that long-term funding will breed reliance among beneficiary organisations to the point that they expect future funding and do not ensure that project outcomes can be independently sustained. This could also compromise overall value for money in the event that funding ceases … when the immediate investment needs which underpinned the establishment of the fund are met, and beneficiaries become complacent about the funding source, there is a risk of "mission creep" with funding being directed more towards Delivery Partners' objectives, and a risk that a greater proportion of the available funding will be targeted towards "nice to have" projects. While there was no evidence that this was already the case, the Evaluation also detected concern that funding could become "nice to have" over the coming years with respect to communities and natural environment projects.[59]

Even so, they were concerned about the implications of this source of funding being withdrawn:

The ALSF leaves valuable lessons for anyone tasked with designing a fund as part of the extended policy framework to encourage achievement of particular environmental goals. It also leaves a huge legacy. But the ALSF will not have achieved its full potential if, on 31 March 2011, the activity and the collaboration it has galvanised simply stop. The mature working relationships built between Government, Delivery Partners, the industry, NGOs and civic society over the past nine years provide the opportunity to continue the dialogue, to take the necessary steps to embed the value of the ALSF's investment and to find ways to continue to make progress towards their shared objective to reduce the environmental impact of aggregates extraction.[60]

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58 HC Deb 1 February 2011 c695W

59 In House Policy Resource (IHPR), *ALSF 2008-11 Evaluation: addendum – lessons learned and embedding the policy*, November 2010 para 2.5.2-4

60 op.cit. para 4.1-2

6 Recent developments

In the 2005 Budget the Labour Government published a series of assessments of its use of environment taxes, including an assessment of the aggregates levy, reproduced below:[61]

Box 7.5: Assessment of the aggregates levy

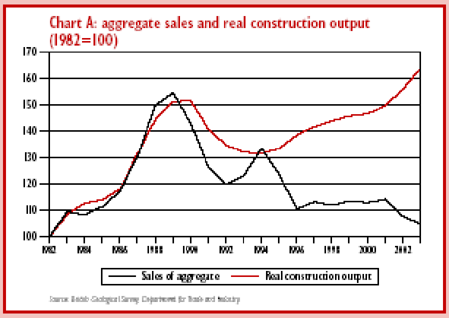
The aggregates levy aims to reduce the amount of primary aggregate being extracted from quarries and to encourage the use of alternatives. Early indications suggest the aggregates levy has been effective in achieving its objectives:

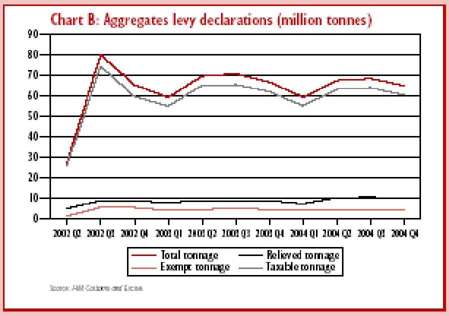
- sales of primary aggregate in Great Britain fell by 8 per cent between 2001 and 2003, to their lowest level since 1982. The falls are against a backdrop of buoyant construction activity, including higher levels of road building since 2000, and GDP growth;
- in England, the estimated production of recycled aggregates increased by 3.1 million tonnes between 2001 and 2003;
- when surveyed, expanding recycled aggregate businesses gave the levy as the most frequent reason for growth since 2001; and
- there was a marked increase in the volume of china clay waste and slate waste sold as aggregate as a result of the economic incentive presented by the aggregates levy exemptions granted to these products. Between 2001 and 2004 china clay waste sold as aggregate in the UK increased by 14 per cent to 2.5 million tonnes.[a] National sales of slate for 'fill and other' uses increased by 65 per cent in 2003, compared with the pre-levy year 2001.

Chart A shows aggregate sales and construction output over time. The series are closely matched throughout the 1980s and early 1990s. However, in the mid 1990s aggregate sales fell while construction output continued to rise. There are reasons for this in addition to the introduction of the landfill tax, including changes in construction processes, and a decrease in road building between 1994 and 2000. Over the period 1997 to 2001, sales of aggregates remained flat before falling sharply after 2001 with the introduction of the aggregates levy. This is against a background of a sharp increase in construction output from 2001, including higher levels of road building from 2000 (which is aggregate intensive).

Chart B indicates that aggregates levy declarations show a seasonal effect, attributed to lower demand from the building sector in the winter months. Declarations of relieved aggregate have increased by around 3 million tonnes per quarter since the quarter beginning April 2004. The most likely explanation is the extension of the Northern Ireland relief scheme from 1 April 2004.

The Government will continue to evaluate the levy, and in particular consider evidence from industry about its impact.





[a] Kaolin and Bael Clay Association

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[61] HC 372 March 2005 p168

No changes were made in the rate of the levy at this time. The 2006 Budget stated that "the rates of the levy will at least keep pace with inflation over time" though it accepted that "the levy is still bedding in."[62] An increase in the rate to £1.95 a tonne was announced the following year:

> The aggregates levy was introduced in 2002 to ensure that the external costs associated with the exploitation of aggregates are reflected in the price of aggregate, and to encourage the use of recycled aggregate. There is strong evidence that the levy is achieving its environmental objectives, with sales of primary aggregate down and production of recycled aggregate up. In Budget 2006, the Government confirmed that it expects that the levy rate will at least keep pace with inflation over time. The Government announces today that the levy will increase from £1.60 per tonne to £1.95 per tonne from 1 April 2008, to take account of inflation since the introduction of the levy. The Government also announces the introduction of an exemption from the levy for aggregate arising from the construction and maintenance of railways, tramways and monorails. This is in line with the exemption already in existence for aggregate to build and maintain highways and waterways.[63]

It was estimated the increase would raise £40m in 2008-09.[64] Provision to increase the rate of the levy was made by s14 of the *Finance Act 2007*. When debated at the Committee stage of the Finance Bill, Philip Dunne, speaking for the Conservatives, argued that the measure was only motivated by the need to increase tax receipts:

> Increasing the cost of construction for UK-sourced materials will simply encourage the importing of materials … Many building products that can use pre-cast concrete for which aggregates are the main feedstock can alternatively use building materials made of timber imported from over seas. The environmental impact of encouraging imports of heavy and substantial building materials is far more significant than the alleged negative environmental impact of extracting aggregate resources. This country has plenty of the latter—they are not in scarce supply and can be sustainably extracted. It is a mockery to claim that the measure before us is anything other than a revenue-raising measure by the Government.

In response the then Financial Secretary, John Healey, cited the assessment of the levy, published at the time of the 2005 Budget, before going on to argue that the purpose of the new rate was to *maintain* the levy's environmental impact:

> This is not a revenue-raising levy. When we introduced the aggregates levy in 2002, we cut the national insurance rate for employers across the board. So, if anything, the Treasury is down on receipts from the levy rather than up. In addition, it is an environmental tax; it is an environmental tax for environmental purposes. Its purpose is, first, to incorporate some of the external costs that come from quarrying and, secondly, to try to encourage the greater use of recycled stone and gravel …
>
> Between [2002] and 2005 the amount of newly quarried rock, stone and gravel in this country was reduced by 18 million tonnes, and the amount of recycled aggregate used in this country over that time increased by 5.5 million tonnes, so it is having the sort of impact that it was designed to achieve … The aggregates levy has not changed, despite the principle on which we introduced it and our expectation that it would rise in

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62 *Budget 2006* HC 968 March 2006 para 7.92
63 *Budget 2007* HC 342 March 2007 para 7.98
64 HC 342 March 2007 p209. Freezing the rate for 2007-08 was estimated to cost £10m.

> line with inflation to maintain not just its real value but its real effect. As it was bedding down, we chose to freeze it each year until this year. This is the first rise that we have proposed; in many ways, this is a catch-up year. We are making this increase in the rate in order to maintain the environmental impact that the levy, in its earliest years, appears to be have been having.[65]

In the 2008 Budget the rate was increased a second time, but by only 5p, to £2.00 from 1 April 2009.[66] When this change was scrutinised at the Committee stage of the Finance Bill, David Gauke, for the Conservatives, asked about the Government's approach to recycling revenues from the levy, and the current range of exemptions: specifically why slate and china clay aggregate were exempt. In response the then Economic Secretary, Kitty Ussher, said, "we have always said that we would make sure that the levy kept pace with inflation over time. That is broadly what we are doing today …. Exemptions are granted to certain materials such as slate waste and china clay waste to promote their use as alternatives to so-called virgin aggregate. That policy stems from our broad minerals planning policy, which seeks to encourage the use of these materials as alternatives to virgin aggregate."[67]

The 2009 Budget stated that the rate would be frozen at £2.00 per tonne in 2010-11 "to ease pressure on the sector facing difficulties under the downturn of the construction market,"[68] and as an indication of this downtown, receipts dropped from £334m in 2008/09 to £275m in 2009/10.[69] In the March 2010 Budget the Labour Government announced a 10p increase in the rate from 1 April 2011 "to maintain the levy's environmental effectiveness"; the change is projected to raise just £5m from 2011/12.[70]

At the time of the March 2010 Budget the Labour Government stated that it intended to extend the credit scheme for aggregate producers in Northern Ireland for a further ten years; initially the scheme had been given state aid approval by the European Commission up to 31 March 2011.[71] Following the General Election, the new Coalition Government reaffirmed this commitment[72] and indicated provision to this effect would be included in a Finance Bill in the autumn. In the event the Bill did not include this provision, and at the Bill's second reading debate on 11 October, the Exchequer Secretary, David Gauke, explained why:

> The aggregates levy credit scheme in Northern Ireland was introduced in recognition of the impact of the levy on legitimate businesses as a result of tax evasion on imports from Ireland and illegal quarrying. Over the summer, we consulted on legislation to be included in the Bill to extend the scheme beyond April 2011 to March 2021. Since then, the European General Court has annulled the Commission's state aid approval for the scheme, for the period covering April 2004 to March 2011. In those circumstances, it would not be appropriate to extend the scheme and we therefore decided to remove the clause from the published Bill. However, the Government strongly support the scheme and, if the Commission were to come to a fresh decision that the aid was approvable, legislation to extend it can be introduced in the Finance Bill in 2011.We will

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65 Public Bill Committee (Finance Bill) 10 May 2007 cc105-7

66 Budget 2009 HC 388 March 2008 p120. The revenue impact of the change was negligible. This change was made by s20 of the *Finance Act 2008*.

67 Public Bill Committee (Finance Bill) 15 May 2008 c262

68 HC 407 April 2009 para 7.67

69 *Aggregates Levy : Statistical Bulletin*, November 2010 (Table 2)

70 HC 451 March 2010 para 7.50, table A1 (item 25). The rate was increased under s16 of *Finance Act 2010*. The Act was passed before the Election, and was not debated at any length

71 HM Revenue & Customs Budget 2010 Budget Note BN57, 23 March 2010

72 Budget 2010 June 2010 para 2.131

> continue to work closely with the Commission, the authorities in Northern Ireland and representatives of the quarrying industry to find a solution that provides a level playing field for legitimate quarry operators in Northern Ireland, while maintaining environmental standards.[73]

Further to this, the scheme was suspended from 1 December 2010,[74] and a few days later the Government submitted evidence to the Commission to support its case for the scheme being reintroduced:

> **Ms Ritchie:** To ask the Chancellor of the Exchequer when he expects to submit to the European Commission evidence on behalf of Northern Ireland representatives of the quarry industry in relation to the reintroduction of the aggregates credit relief scheme.
>
> **Mr Gauke:** Since the European General Court judgment in September which annulled state aid approval for the aggregates levy credit scheme in Northern Ireland, officials have been engaging with the European Commission to pursue reintroduction of the scheme at the earliest opportunity. Following a meeting in October, the Commission asked for evidence by Christmas to inform its reconsideration of the suspended scheme and the scheme the Government are seeking to reintroduce. The Government sent a response on Wednesday 15 December.[75]

To date no further details have been given on the progress of this submission.

[73] HC Deb 11 October 2010 c53
[74] HC Deb 26 October 2010 c7WS
[75] HC Deb 20 December 2010 c974W