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Press and Information

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Judgment of the Court of First Instance in Case T-210/02

British Aggregates Association v Commission of the European Communities

THE ENVIRONMENTAL LEVY ON AGGREGATES IN THE UNITED KINGDOM DOES NOT CONSTITUTE STATE AID

The Court of First Instance rejects the application against the Commission's decision not to raise objections against that environmental levy

The Finance Act 2001 introduced an environmental levy on aggregates (Aggregates Levy, 'AGL') in the United Kingdom. That levy is imposed on granular materials (sand, gravel, rock) which are extracted in order to be used, either as they are or after mechanical processing, in construction (as ballast or construction fill, or mixed with binders to produce concrete or bitumen). The relevant provisions lay down exemptions for spoil from certain materials (including slate, shale, ball clay and china clay), and for exports. The AGL was introduced in order to reduce and to rationalise the extraction of minerals commonly used as aggregates, by favouring their replacement with recycled products or exempted virgin materials.

The Commission held that the exemption of certain minerals did not constitute State aid, since the scope of the levy was justified by the logic and nature of the tax. Accordingly, it did not raise any objections against the AGL. British Aggregates, an association of small independent quarrying companies in the United Kingdom, brought an action seeking the annulment of that decision.

In its judgment, the Court of First Instance rejects all of the pleas put forward by the applicant.

The Court considers that the Commission did not commit a manifest error in its assessment of the definition of the scope of the levy on aggregates.

It notes first of all that an environmental levy is characterised by its environmental objective and its specific tax base. It seeks to tax certain goods or services so that the environmental costs may be included in their price and/or so that recycled products are rendered more competitive and producers and consumers are oriented towards activities which better respect the environment.

The Court of First Instance finds that, in the absence of Community measures for harmonisation, the decision to introduce an environmental levy such as the AGL falls within the power of the Member States to set their priorities in the economic, fiscal and environmental fields. The United Kingdom was accordingly free to determine, as part of its environmental policy, the minerals used as aggregates which it considered appropriate to tax and to exempt certain other materials.

In the present case, the exemption of other materials in order to promote their use as aggregates was justified in particular by the existence of large stocks of some of those minerals, considered to be waste and to disfigure the landscape, in a number of areas. The imposition of the levy on certain aggregates which cannot be replaced by alternative products could reasonably respond to the objective of internalising the environmental costs of the production of virgin aggregates. The definition of the scope of the AGL accordingly did not contravene the environmental objectives put forward by the United Kingdom authorities and could reasonably be justified by the nature and the general system of the AGL. The Court of First Instance concludes from that that the Commission was entitled to find, without committing a manifest error of assessment, that one of the essential requirements of State aid, namely selectivity, was not met.

As regards the exemption of exports from the levy, the Court of First Instance holds that it is justified by the nature of the AGL as an indirect tax.

PLEASE NOTE: an appeal, limited to questions of law, may be brought against the decision of the Court of First Instance before the Court of Justice of the European Communities within two months of its notification.

Unofficial document for media use, not binding on the Court of Justice.

Languages available: FR, EN

The full text of the judgment may be found on the Court's internet site

<http://curia.eu.int/jurisp/cgi-bin/form.pl?lang=EN&Submit=rechercher&numaff=T-210/02>

It can usually be consulted after midday (CET) on the day judgment is delivered.

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