

Department of Energy & Climate Change

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By email

Our ref: **12/0655**

22 May 2012

Dear

RE: Freedom of Information Request

I refer to your request of 24 April 2012 for the disclosure of the written submissions of the United Kingdom in Case C-366/10 *Air Transport Association of America and Others v Secretary of State for Energy and Climate Change* ("the UK Written Observations"). This has been treated as a request made under the Freedom of Information Act 2000, and has been considered jointly with EU Litigation Division of the Treasury Solicitor's Department.

It is to be noted that the UK Written Observations, having been filed with the Court of Justice of the EU for the purpose of its proceedings, fall within the exemption contained in section 32(1)(a) of that Act.¹ The application of section 32 is not subject to any public interest balance; and the exemption in section 32(1)(a) continues to apply notwithstanding that the Court has now given judgment in the case.

However, having regard to the circumstances of your request, and after consulting other Government Departments with an interest in the case, it has been decided to disclose the requested information. A copy of the document is accordingly attached.

Furthermore, in view of the wider public interest in the issues raised in the case, it has also been decided to publish the document on this Department's website, where it can be found at <http://www.decc.gov.uk/foi/>.

¹ **32. Court records etc.** (1) Information held by a public authority is exempt information if it is held only by virtue of being contained in— (a) any document filed with, or otherwise placed in the custody of, a court for the purposes of proceedings in a particular cause or matter [...].

Appeals procedure

If you are dissatisfied with the handling of your request, you have the right to ask for an internal review. Internal review requests should be submitted within two months of the date of receipt of the response to your original letter and should be addressed to: **Information Rights Unit** (foi@decc.gov.uk)

Please remember to quote the reference number above in any future communications.

If you are not content with the outcome of the internal review, you have the right to apply directly to the Information Commissioner for a decision. The Information Commissioner can be contacted at: Information Commissioner's Office, Wycliffe House, Water Lane, Wilmslow, Cheshire, SK9 5AF

Yours sincerely,

Legal Adviser
EU ETS
Department of Energy and Climate Change