

FROM: S G BREARLEY
Political Development Team
30 September 1996

1. Julie 1/10
2. Jeff 1/10
3. PA

cc PS/Secretary of State (B&L) - B
PS/Sir John Wheeler (B&L) - B
PS/Michael Ancram (B&L) - B
PS/Malcolm Moss (DHSS, DOE & L) - B
PS/Baroness Denton (DED, DANI&L) - B
Mr Thomas - B
Mr Steele - B
Mr Bell - B
Mr Leach (B&L) - B
Mr Steele - B
Mr Watkins - B
Mr Wood (B&L) - B
Mr Beeton - B
Mr Priestly - B
Mr Hill (L) - B
Mr Lavery - B
Mr Maccabe - B
Mr Perry - B
Mr Stephens - B
Ms Bharucha - B
Ms Mapstone (L) - B
Mr Whysall (L) - B
Ms Collins, Cab Off (via IPL) - B
Mr Dickinson, TAU - B
Mr Lamont, RID FCO - B
HMA Dublin - B
Mr Westmacott (via RID) - B
Mr Campbell-Bannerman - B

PLENARY SESSION: CONFIDENTIALITY

I attach a revised paper on confidentiality circulated by the Independent Chairman to all the participants this afternoon.

This is due to be discussed at tomorrow morning's plenary session.

(Signed)

S G BREARLEY

TALKMAIL/203

CONFIDENTIALITY: POINTS OF AGREEMENT AND QUESTIONS FOR DISCUSSION

(Circulated September 29. Changes based on written submissions.
Differences from September 23 version noted as underlined.)

POINTS OF AGREEMENT

1. In accordance with rules 16 and 43 of the Rules of Procedure, records of formal meetings will not be distributed or in any way conveyed to non-participants in the multi-party talks unless participants agree to their release, or if required to do so by a judicial or police proceeding.
2. The contents of the minutes, including words, phrases, and view points, will not be passed to non-participants in the multi-party talks unless participants agree to their release, or if required to do so by a judicial or police proceeding.
3. Documents produced by the Office of the Independent Chairmen at the behest of the participants will not be distributed or in any way conveyed to non-participants in the multi-party talks unless participants agree to their release, or if required to do so by a judicial or police proceeding.
4. (British Government suggestion) Documents produced by participants in the course of the negotiations will be subject to the rule of confidentiality except that it will be permissible for any participant to make use in public of any statement of its policy, or to respond in public to any enquiry relating to its position, on any matter relating to the negotiations. In doing so the policy or position of any other participant would not be made public.
5. The rule of confidentiality applies to the two Governments and the Independent Chairmen, as well as to the participating political parties.

QUESTIONS FOR DISCUSSION

1. **Regular briefings of the media:** Should regular briefings take place? Who would brief? How often would briefings take place? How would briefings be prepared and agreed by participants?

DUP suggestion: At periodic intervals the Chairmen separately or collectively, when they feel the degree of process made in negotiations merits it or when they believe it is in the interests of the Process generally, may produce for the consideration of the Business Committee a Press Update. The Chairmen should not feel constrained in answering press and media questions of fact arising from the Update or relating to the mechanics of the Talks Process but will want to avoid responses that might amount to political comment or conjecture about the actual negotiations.

2. **Length of period of confidentiality:** Should the period of confidentiality extend beyond the period of talks? If so, how long?
3. **Breach of confidentiality: First strike:** If a party is seen to have breached confidentiality, are other parties entitled to respond without further ado?
4. **Breach of confidentiality: Consequences:** Who determines whether confidentiality has been breached? How is such a determination to be made? What practical effect should a breach of confidentiality have?
5. **Third party response to accusations of breaches of confidentiality:** Should parties have the option/requirement to refer media requests for comment/clarification of statements to the Independent Chairmen for appropriate handling?

6. (DUP suggestion) Definitions: What is the meaning of "negotiations" in regard to interpreting the present law? What is the distinction between Talks Process and the "negotiations?" Which documents are actually in the public domain? Are negotiations between governments and other parties, to which a third party has no place, to be reckoned to be beyond the scope of comment by that outside party because of the Confidentiality Rule?