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COMMISSION OF THE EUROPEAN COMMUNITIES
Mr Marcelino Oreja, Mr Daniel Calleja and Mr Nigel Evans

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Members present:

Mr David Howell, in the Chair

Mr Mike Gapes
Sir Jim Lester
Mr Ted Rowlands
Mr Peter Shore
Sir John Stanley
Mr David Sumberg
Mr Robert Wareing

STATEMENT OF COMMISSIONER OREJA

Thank you, Mr Chairman, for inviting me to appear before the Committee.

In the past, I have been on both sides of this particular fence: chairman of the equivalent committee in the Spanish Cortes, and Foreign Minister appearing before it. So I know that you will want to devote most of the time to your questions.

Today, as Commissioner responsible for the IGC let me make a few points on the Conference.

1. *The first point concerns the nature of this IGC.* In my opinion this IGC is not directed—as was the Treaty of Maastricht—at extending the Union's activities into new areas. Rather its aim is "to make the Treaty work".

That means correcting its faults, and bringing it up-to-date, so that it works properly *today*. It means making the changes necessary so that it works properly *tomorrow*—that is, after enlargement.

The key word, therefore, is "modernisation": precisely so that the Union can best serve the interests of member states and of individuals.

2. *The second point is that the IGC is not an end in itself, it is the means to an end.* And that end is to guarantee and reinforce the values that lie at the heart of our societies: democracy and open economics.

We are in a period of unprecedented change, brought on by the emergence of a world-wide economy, and the information society. And inside Europe, we are faced with enlargement. This is important to the countries concerned. But it is important for our own peace and prosperity as well.

That is why the Commission's interest is not in new powers, but in a Treaty that is strong enough to deal—effectively and flexibly—with the changes the future will bring. We should not lose sight of this broader context.

3. *My third point concerns more specifically the question of enlargement.* I think public opinion understands the importance of enlargement itself, and the need to adapt our system to a Union virtually twice as large as the United States.

Whatever the exact timing, the countdown towards enlargement has begun. The notion that we might prolong, or postpone the IGC is politically unwise. We have to prepare for enlargement, now.

That leads me to the substance of the IGC itself. We need to make progress in several areas if we are to find an answer to the real concerns of individuals.

4. *Their first concern is prosperity.* There is a general worry about unemployment and job security, and all member states have to be concerned about the competitiveness of their own economies, and that of the Union as a whole.

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Growth, competitiveness, and employment go hand-in-hand, for only a competitive economy can create lasting jobs. That means:

—to make the Single Market work, and complete the process of liberalizing protected markets;
—and that means to take a practical approach to unemployment. The prime responsibility will remain with the member States, and we certainly cannot create jobs by modifying the Treaty. But the Union can define a framework for better coordination and cooperation of national policies.

5. *The second concern is security.*

The Union has never been only a matter of economics. It covers many other issues, and individuals are rightly concerned about insecurity. The so-called "third pillar" has not worked well. We have made little or no progress on the issues which directly affect citizens throughout the Union, terrorism, cross-border crime, immigration, asylum, extradition, drugs traffic.

Life within the Union has become much more international for all of us. Our police forces and other authorities are struggling to catch up with these developments, and need the appropriate working methods.

We all have an interest in seeing more effective joint action against crime and terrorism. We all have an interest in seeing more effective European action on extradition and in a more harmonized approach to asylum and immigration. We all have an interest to deal with conflict over child custody, when a mixed-nationality couple divorces. We want progress in reducing the supply of drugs and this requires more effective cooperation and coordination.

6. *From internal security, I should like to pass to external security. That also is a concern for individuals, for they see instability and wars on the frontiers of the Union itself.*

Europe has seen an unprecedented period of peace and prosperity, in the last half-century. Member states have defended their interests, and achieved greater influence, by acting together—both in the Union and in NATO. The challenge now is to guarantee and extend the stability we all enjoy, in a period of new uncertainties. That is why we need a firmer basis for the Common Foreign and Security Policy.

This is an area where the Union can benefit greatly from the United Kingdom's expertise. You have built up over the decades and centuries, a profound understanding of the responsibilities implied by a real foreign policy, and extensive links with all parts of the world. The Union looks to countries such as the United Kingdom to bring their experience to bear, and play a leading role.

The Commission recognises the intergovernmental nature of the "second pillar", and we want to reinforce and clarify existing roles, rather than invent new functions. Our aim is to ensure a consistent approach, integrating the various aspects of external relations, including the Community's traditional responsibilities in external economic relations.

But the general point remains: our experience—especially within NATO—shows that we do not compromise or lose effective control, if we act together. The influence of a member State can be greater when working through and with the support of the Union.

7. *Finally, public opinion expects—quite rightly—that our procedures and institutions work effectively. That means streamlining them in preparation for enlargement.* There are many aspects to this. I would simply recall that the aim is to combine efficiency and legitimacy.

The key issue is whether unanimity can be maintained as a decision-making rule.

You know that qualified majority voting has been instrumental to getting the Single Market legislation adopted. It has become the commonest form of decision-making. In practice, it encourages the search for consensus that all can live with, rather than the outvoting of a minority. It has been very beneficial, including and perhaps especially—in pursuit of the UK's interests.

The Commission recognises that there are subjects for which the decision-making hurdle should possibly be set especially high, for example, through a super-qualified majority. And we know QMV is generally inappropriate to constitutional issues or Treaty changes which have to be ratified by national Parliaments. But we want a system in which qualified majority is the general rule, and any exceptions logically justified.

8. *I should like to finish, Mr Chairman, on the question of perceptions.* That there is disagreement about certain aspects of the IGC is normal: otherwise, what would there be to negotiate? That there are sometimes completely different perceptions, either about what is happening or about what is intended, is more worrying and can lead to serious miscalculations.

—For example, there are confused perceptions about the nature of the Union. It is an original system. It is "sui generis", but within it each Member State has equal rights, and can defend its interests.

—There are also different perceptions about "flexibility". This is not a universal solution, either to undo the past or to prepare the future.

Any right for the minority to opt out has in logic to be balanced by a right for the majority to go forward. Recognising the rights of the majority is in fact one way in which the debate on flexibility has developed since Maastricht.

That underlines the desirability of achieving progress on the basis of consensus. But that requires that all the member states manifest, in their positions and their proposals, a real desire to make progress, "Flexibility" is a last resort, not a substitute for ambition.

Mr Chairman, the governments have to chart the way forward for the Union. They will want to work on the basis of unity and consent. But any negotiation requires mutual trust and confidence. It is not only a question of one or two member states defining their position vis-à-vis the others, as it has sometimes appeared in the past. It is also a question of how the majority perceive the attitude of the minority.

We all have a part to play in restoring that trust and confidence. The negotiations are starting. I therefore look forward to closer cooperation with the United Kingdom in the months ahead.

Examination of Witnesses

MR MARCELINO OREJA, Member of the Commission of the European Communities, MR DANIEL CALLEJA, Chef de Cabinet and MR NIGEL EVANS, Counsellor, Intergovernmental Conference Task Force, Commission of the European Communities, examined.

Chairman

280. I would like to begin by welcoming you, Commissioner, and thanking you very much with your colleagues for coming here this morning. It is very valuable for us in the Committee to hear your views. We appreciate very much the time you have taken in coming here to London to see us. As you know, Commissioner, we are in this Committee entrusted to report to Parliament as a whole on the progress in the Intergovernmental Conference and obviously on our own national policies and attitudes towards the IGC. You are empowered by the President to be the Commissioner in charge of the institutional affairs and the IGC, so you really are uniquely placed to help us with this inquiry. I believe you wanted to make a brief opening statement. We have had a paper from you which we have read with great interest. It is extremely clear and we are very grateful for that. I think as you recognise, dialogue is the best way forward in the Committee, so perhaps you would just like to make one or two headline points out of your paper and then if we may we would like to enter into questions and answers.

(Mr Oreja) Thank you very much, Chairman. As I have presented a paper to be written into the record, perhaps, if you agree, it is not necessary that I insist on the points I mention there. I am at your disposal. But let me just say how pleased and honoured I am to be here today. I have been chairman of the corresponding committee in the Spanish Cortes for several years, so I find it rather comfortable to be here, although this time on the other side of the barrier! The way you pursue the issues, the control of government, what is happening in Europe, is a good example for other Parliaments. It is not easy for a Commissioner to be here, in front of this Committee, but I am looking forward to having this exchange of views. We are at a key moment. We have just had a European Council meeting, and I am going to Cork tomorrow for a kind of seminar on the preparation and the work of the Irish Presidency on the Intergovernmental Conference, concentrating on the preparation of the European Council in October (Dublin I). It is really a crucial moment to have this exchange of views. I am most interested to have your remarks, your questions and your comments. I am at your disposal to try to answer your questions. Perhaps my two colleagues, the head of my private office, Mr Daniel Calleja, and Mr Nigel Evans, can also intervene on detail.

281. Thank you very much indeed. As I say, we have read your paper and it is very clear and helpful. Could I begin with a rather general question which is, what assessment have you and your colleagues made of the progress to date for the Intergovernmental Conference? Since you mention your trip to Ireland, do you think it is realistic to aim for this idea of presenting some revisions of the Treaties in time for the Dublin European Council? Is that going to be possible?

(Mr Oreja) Yes, I think so. We started this Intergovernmental Conference, as you know, in Turin, and before that we had had six months of the Reflection Group. The work of the Reflection Group was useful. It was an exchange of views, which corresponds to what a Reflection Group should do. There has always been more or less a Reflection Group: there was in 1956, and there was in 1985. Perhaps one of the reasons for the difficulties in the Intergovernmental Conference in 1991 is that previously there had not been a Reflection Group. Now we have had this Reflection Group, with an open exchange of views between the representatives of governments and Parliament and Commission. So we started the Conference in Turin, and from Turin we went to Florence two months later. In this time we have not yet started real negotiations. There has been a continuation of the exchange of views, perhaps more precisely than in the Reflection Group, but still the exchange of views. At the European Council meeting in Florence the heads of state and government discussed this subject for a couple of hours. They practically all agreed it was necessary to push forward, to enter into real negotiation. This means moving beyond the fiches[1] we have had during these last months and to discuss draft texts. You probably remember the questionnaires distributed by the Italian Presidency: draft articles were sometimes included, but we never entered into discussion of them during these last few months. Now the time has come to discuss in detail the articles of the Treaty and their modification. Of course this means we should make clear which are the priorities. Perhaps in some areas the time is not ripe to have a discussion on articles and we should still discuss the underlying principles. But in other matters I think we should start examining the articles. We should start tomorrow in Cork, and then in the proper Intergovernmental Conference at the level of ministers in one week's time, to define the priority areas. We can then prepare, in the two weeks we have in July, in September and in the first weeks of October, for Dublin I. This will cover a first package of subjects and perhaps of articles. I think we can arrive at the Dublin European Council in December with a draft treaty: with brackets, and with some questions fully-elaborated, while others are less so. But I think it is necessary to arrive at Dublin II with a sufficient basis; otherwise it would be difficult to proceed in the first months of 1997 and finish in June 1997. As you know, the European Council in Madrid stated that the Conference should end in 1997. There was not an exact date; now Florence indicates that it should be June 1997.

[1] "fiches" = questionnaires: documents on the different topics of the IGC (Citizenship, External Relations, and so on) prepared by the Italian Presidency for discussion in the IGC.

[Chairman *Contd]*

282. June 1997. You say, Commissioner, in your paper that really in your view the aim of the IGC is modernisation, which is the phrase you use. Presumably that means adjusting the machinery to prepare for not only an enlarged Union but a Union for a fast changing world. Is that a right assessment and is the preparation for enlargement really quite central to this in your view?

(Mr Oreja) I think it is both. First, I think changes in the Treaty are inevitable. Changes in global outlook, and all the changes which have emerged over the last five or six years, make it necessary to have changes in the Treaty, even if there was not an enlargement. This possibility was something that the legislators were conscious of in 1991 and therefore in the Maastricht Treaty they said that after a few years there should be a new Intergovernmental Conference—there is no precedent for that. It is the first time in the Treaty it is said that after a certain number of years there should be a new Intergovernmental Conference and this is in the Treaty of Maastricht. Certainly, one of the important reasons for the changes which have to be introduced is (and I used a word which is not very precise) "modernisation" but there is also enlargement. Enlargement inevitably requires some changes in the Treaty. So there are two elements which should be taken into consideration. One, the changes in society and in world politics in recent years, and on the other side the needs of enlargement.

283. Do you foresee a time, Commissioner, from your own point of view when there will not be more changes in the Treaty? In a sense the Treaty is the constitution of the Union, and we feel, certainly in this country, that a constitution should be as far as possible a settled thing, a settled matter, and a framework within which other changes can take place. New members of the Union involve some additions, addendums, to the constitution, to the Treaty, and we understand that, but otherwise is this constant pressure for changes to the Treaty something we can ever expect to be reduced so we can all settle down under a settled Treaty arrangement for the Union?

(Mr Oreja) First, the word "constitution". What is a constitution? There are written constitutions, and certainly there are constitutions which are hundreds of years old and which are not written. We have the United States with a constitution which has had all these amendments added. The words "constitutional rights" have been used by the Court of Justice with regards to the Treaty. The Treaty is in a way a constitution which foresees the possibility of amendments. These amendments are introduced through the method of the Intergovernmental Conference. It is difficult to say there will never be new changes to the Treaty, that this will be the last Intergovernmental Conference. But it is not healthy to say that in two or three years' time there will be a new Intergovernmental Conference. We need some kind of stability. It does not mean there will never be another Intergovernmental Conference, that is impossible to say. But we should not be always living under this kind of threat, that in two or three years' time there will be a new one. Let's try and stabilise things, given the perspective that at least eleven, and tomorrow twelve, states will try to join the Union.

Sir John Stanley

284. Commissioner, following your very last words, it has been said to us on a number of occasions as we have travelled through most of the existing EU Member countries that we need to plan and make Treaty changes now against the enlargement position in which there are, as you have implicitly just referred to, some 25 Members of the EU. Commissioner, would you not agree that before the EU can achieve anything like that size it is going to require quite fundamental changes to key policy areas, such as the Common Agricultural Policy, and another key policy area is the whole present structuring of the EU budget? Would it not be better to look in terms of this Intergovernmental Conference at the EU at its present size and then address at a later stage the implications of a membership of 25 or so, once it is clear that the existing Members are indeed willing to recognise the fundamental changes in budgetary policy and agricultural policy in particular which will be necessary if there is going to be an enlargement to, say, 25 Members?

(Mr Oreja) I think that is a very interesting point, but we should distinguish between the Treaty and policies. With regard to agriculture and funds, the Treaty probably does not need to be changed. Within the Treaty framework changes can always be made to the operation of specific policies, such as the Common Agricultural Policy and the Structural Funds. The European Council in Madrid on 15th December asked the Commission to prepare three kinds of reports that should be presented at the end of the Intergovernmental Conference, whenever that is. First, what are the consequences of enlargement in general for the Community? That is a very broad report. It is already being prepared. Second, a report on the detailed consequences of enlargement—including precisely the questions you mentioned on the Structural Funds and on Agricultural Policy—for this country and for other countries. This extensive exercise is also underway; and we have regular interim reports by Mrs Monika Wulf-Mathies responsible for the Fund and by Mr Fischler responsible for agriculture. Then there will be the third, which will be the opinion on each of the applications for accession. Except in the case of Malta and Cyprus—because there we know exactly what is the date, which is six months after the Intergovernmental Conference. We do not know with how many countries the negotiations will start. There has been a debate about this: do they all start at the same time? It will be the Council who decides with which country and when the negotiations are opened. I think we should separate two important but distinct exercises. One is the exercise of what should be changed in the Treaty. What is the other exercise? It is extremely complicated. In the terrible year that will be 1998 many things will happen. We shall have the ratification of the Treaty for the different Member States, some by referendum and others by Parliament.

[**Sir John Stanley** *Contd*]
We shall have the opening of negotiations for accession. And then there will be all the dramas of the financial perspectives; that is a key problem which will start immediately at the end of the Intergovernmental Conference. It has nothing to do with the Treaty but in a way it could determine some of the elements in the Treaty. But this is a different exercise; the exercise of having what will perhaps be called Santer I, as we had Delors I in 1988 to start in 1989 until 1994, and Delors II from 1994 to 1999. We shall have Santer I from 2000 to 2005, and there will be discussed these two matters that you mention—the Agricultural Policy and the Structural Funds. But this is a different exercise from modification of the Treaty.

285. When you say it is a different exercise, surely it cannot be wise or sensible to move into Treaty changes postulating certain fundamental policy changes in the future on those two subjects until you know the existing Member States are going to be able to achieve those policy changes? Surely it is erecting Treaty changes on an essentially false prospectus?

(Mr Oreja) I do not agree. I do not think so. One question concerns the structure, and the structure is possible with more countries or fewer countries. Within that, there can be one solution or another for the Agricultural Policy or for the Structural Funds because these are policies. They do not correspond to the structure or the building. You can have this building and in this building you could have one use or another, the problem is that the building should be sound and should provide all the right conditions. Inside the building you could use it for one purpose or another, and that is the problem of the Structural Funds. I think the consequences of the negotiation on the Structural Funds and the Agricultural Policy will probably be crucial to the approval by national Parliaments of the Treaty, even though they are independent matters. But inevitably there will be an influence. Imagine that the principle of conditionality is a principle accepted in that negotiation, for the Structural Funds. Now you know there is currently conditionality of the Cohesion Fund; that is if a Member State does not accept a certain number of rules with regard to budgetary deficit, then the Cohesion Fund it receives could be conditional. This is in the Treaty. What will happen if it is decided there should be conditionality for the Structural Funds, that is if a Member State receives Structural Funds and does not reach the standard of public deficit? Will it have the consequence of reducing the Structural Funds payments? This is a key issue for some Member States, especially for four of them, as you know. Certainly in that Member State there will be an effect on the ratification of the Treaty even being—I repeat—a different exercise. But the consequence is that the reaction of that Member State would not be very positive. This is what I meant by two different exercises but certainly linked one to another.

Mr Gapes

286. Can I ask a question about the timetable? You said you were hoping the agreement would be by June 1997, but the actual text of the Presidency Conclusions from Florence is not quite as specific as that. It says that the Council expects the meeting in Dublin to make decisive progress, which implies completing the Conference by mid-1997.

(Mr Oreja) Yes.

287. Mid-1997 is not quite as specific as June. I wonder, given we had all the political problems in Italy without having a government and the Reflections Group did not actually get very far, is it not unrealistic to have a timetable for the middle of 1997 when we all know there are political events and elections and things going on in a number of Member States which may make it preferable to stretch it a few months? Would it be better to have an agreement rather than a disaster? Therefore, is it not worth waiting a few months?

(Mr Oreja) First, with regard to elections in national states, let me tell you as a national of a country which did not have elections for 40 years I salute with great satisfaction that there are elections; it is natural that there are elections. This is something which fortunately enough has not been harmonised by the Community—to have one date for elections! Elections are inevitable, they happen. So I do not think we should pay attention to this or that date. It is not the exact date of June—it said "mid" which could be 30th June or 1st July. The idea is that it cannot be open-ended, it should not be open-ended. Personally, I did not fully realise when I saw 1996 for the Intergovernmental Conference, in the Treaty of 7th February 1992. Why 1996? Precisely because we have many problems that arise in 1997 and 1998 which make it inevitable the Conference end mid-1997 or end-1997; it is urgent to end in 1997. We mentioned the negotiations on the financial perspectives which will be a central issue before the year 2000. We have the Western European Union with a decision in 1998; we have another absolutely essential decision which will be taken in March or April 1998 which is to decide how many Member States are going to join the third phase of the monetary union. All these things will happen between the beginning of 1998 and during 1998. That means ending the Conference sometime in 1997—mid-1997 or a little later —but I do not think we can leave it longer. This is the first time the European Council gives a date—it was said in a very loose way in the Madrid European Council in December 1995, and now we have gone a step further and said mid-1997. I think that is right.

Mr Rowlands

288. May I return you to the answer you gave to our Chairman a bit earlier about what triggers off the changes in the Treaty? Is it that changes are necessary now or are they changes because of enlargement? Can we clarify and distinguish because you said there were two? Let us distinguish between those proposed changes to the Treaty which you feel are necessary because of enlargement, and those which are necessary on their own terms. For example, in your statement, paragraph 7, you make a very powerful plea for qualified majority and super-qualified

[**Mr Rowlands** *Contd*]
majority voting, and that in your statement is set in the context of an enlarged Europe. Those proposals in your view are tied to enlargement and are not necessary to run the Community as it stands now. What proposed Treaty changes do you think are necessary irrespective of enlargement?

(Mr Oreja) Certainly the idea of moving towards an extension of qualified majority is necessary with enlargement.

289. With enlargement, yes.

(Mr Oreja) With enlargement. I do not mean that I personally and the Commission are happy with the way it works today. We think there are areas where unanimity is demanded and is not necessary. Let me give an example. I am responsible for culture in the Commission, besides institutional matters. We have three programmes that have been launched by the Commission, one on national heritage, another on translations and another on artistic activities. These are modest activities because the principle of subsidiarity means that it is up to the Member States (and I would say not only the Governments of Member States but in my opinion by society in the Member States) to pursue cultural policies. Does it make sense that, under Article 128 of the Treaty, these activities should be decided by unanimity? Not in my opinion. I think it is not necessary. I think there are areas, very sensible areas, where I think it is acceptable that there is unanimity. But to discuss matters such as programmes supporting national heritage, or programmes supporting translations, and to have the possibility that one Member State blocks a decision adopted by 14 Member States—I do not think makes very much sense. Another problem concerns the combination of the unanimity rule with the co-decision procedure. There are areas where the idea of having unanimity and co-decision might co-exist, but I think that should be only in a few cases. At the same time I am very respectful of the idea of unanimity in some cases—for constitutional changes, the accession of new states, own resources, I think unanimity should exist for these. As I say, if today the restrictive use of qualified majority is not an adequate solution already with 15 Member States, I think it would be not acceptable if there are more Member States. If we reflect on the third pillar, the way the third pillar has not worked well these two years since the entry into force in December 1993 of the Treaty. The reasons are set out in the Opinion we presented before the opening of the Intergovernmental Conference—and perhaps we might have an opportunity of looking through that paper. We think some changes should be introduced and one of the changes is to communitarise a certain number of ideas which are there, such as special problems of immigration, asylum. These should be communitarised, and if communitarised, not according to the principle of unanimity but by qualified majority voting. Therefore, I would like to say that there are some matters which probably already now should be changed to qualified majority. Decision making on others will be more complicated if instead of having 15 Members we have 20 or 25 Member States. Then it would be impossible, and it simply could not work, to maintain unanimity for these.

Mr Gapes

290. What decisions have been blocked under the present intergovernmental arrangements which could have been agreed if justice and home affairs had been subject to majority voting? The question really is, although it may not be necessarily tidy to have these differences, nevertheless it is the outcomes which matter, is it not, rather than the actual structures? Could you give an indication of what it is that is causing the concern on justice and home affairs in general and what decisions would have been done in a different way if there had not been this current system?

(Mr Oreja) The operation of home affairs is probably a translation into the third pillar of what exists in the second pillar. That is, the idea of common actions, of common positions, of conventions. This is a principle that probably can work for the second pillar. Matters of justice and home affairs were not included in the Treaty before Maastricht, and probably in the last months or weeks of discussion of Maastricht they decided "Let's put everything in, let's have a cover of something called the Union, and inside the Union let us put the three pieces, one for Community matters and the other two for matters which were not included before—foreign and security affairs, and home affairs." In these two pillars, the question of foreign affairs and defence was the result of long reflection. The mechanism for this second pillar was also adopted, immediately, for the third pillar. The result is that the co-operation between the Member States in different areas such as asylum, immigration, the fight against terrorism, has not worked sufficiently well. Let me give one example. The convention on extradition has caused severe problems to many states. It is very important because it cannot be accepted that somebody who is considered a terrorist in one Member State is not considered a terrorist in another—among countries who respect human rights and who are members of the Convention of Rome of 1950 on Human Rights and Personal Freedom. It does not make sense that it has taken such a long time to arrive at the old and traditional mechanism of a convention. Finally, they have reached a result in Florence, as you know, and some of the outstanding problems were solved a few days later. Finally we now have the convention on extradition but it has taken a long time. Probably instead of having this kind of mechanism there will be communitisation in some areas of this third pillar; things would work better. Ultimately we have to explain to the citizen what are the advantages of Europe, and one of the advantages of Europe is precisely in relation to home affairs and justice. I think there the individual citizen is conscious that matters cannot be solved directly by one Member State alone and that all Member States acting together can find better answers to the concerns of insecurity which he or she feels today.

Sir John Stanley

291. Following Mr Rowlands' question, Commissioner, I was grateful to you for giving us one illustration of the areas where you feel that unanimity

[Sir John Stanley *Contd]*

might be replaced by qualified majority voting, but I have to say I was somewhat surprised by the area you chose—national heritage—which I would think would be an extremely sensitive area in many countries. We had an interesting debate on a very important heritage stone in our own parliament yesterday. Commissioner, seriously on that point, supposing this area was subject to qualified majority voting and supposing, for example, as would be quite likely in this area the Commission introduced a Directive under which national art collections in Europe were to be made the subject of lending arrangements. I wonder if you could tell us how you believe the Spanish people, for example, would react to such an EU Directive under which they lost a degree of control over their ability to retain in the Prado the Spanish National Collection?

(Mr Oreja) You must not suppose the Commission must inevitably do stupid things! This particular example is not possible under the Treaty.[1]

292. But it could be under qualified majority voting.

(Mr Oreja) No, no, because ——

293. You would not be able to veto it.

(Mr Oreja) It is precisely excluded in article 128(4) of the Treaty. This is not a possibility. I must say I raised the question of culture because in my view—there might be others—the activity of the Union or the Community in cultural matters is perhaps modest—in the sense that I think the only role that the Community can have in cultural matters is to see what you can find in common in the different cultures which exist in the different Member States. I think it is difficult to speak of one European culture, I think there are cultures in Europe. I think there is not only one culture in each Member State, in each Member State there are different cultures and we should all be respectful of them. I imagine this happens in the United Kingdom and I cannot speak about that. As regards to my country, I am a Spaniard but I am also a Basque. I am very respectful of the Basque culture and of the Galician culture, but this does not mean there does not exist also a Spanish culture which is a complement to all these different elements. Probably the role of the Community with regard to culture, in my opinion, is to see what you can find in common in the different cultures. Let me give you an example. Perhaps you like the Baroque (I like very much the Baroque). In Italy you visit Martina Franca, or you visit Queluz in Portugal, or Salzburg or Krakow—you see expressions of different kinds of Baroque; very different. But if you go and visit in Cambodia, Angkor, you will see that that is completely different again. You feel very comfortable in Martina Franca and in Salzburg and in any of these big manifestations of the Baroque because they are very familiar to you, but if you go to these huge, immense monuments in Angkor in Cambodia, you will see that this is also Baroque but different. To see what is common in the different manifestations of the Baroque, this is one of the modest but I think necessary activities that can be pursued by the Community. This is perhaps something that I imagine does not need unanimity in the decisions but probably a majority.

[1] Harmonisation measures are explicitly excluded in the field of culture by Art.128 of the Treaty.

Mr Shore

294. Commissioner, I am quite sure as a reasonably intelligent citizen I am quite capable by myself of visiting different centres in Europe and discovering what cultural heritage we have in common and what we have which is different. What I do not understand is why the Commission thinks it should be interfering in the matter of culture. The question I want to put to you is this: you have mentioned national heritage, surely that is the least part of the ambitions in the chapter which deals with culture? Culture is not just about national heritage, museums and monuments, it is also about television, it is about radio, it is about the press, and a number of people think it is also about sporting activities as well. These are areas which concern very much public opinion, people with different views and different ideas. This is surely simply a bridgehead clause under which you hope to make later advances in terms of the matters I have just raised with you?

(Mr Oreja) Let me say I think it is very important that you mention the distinction between what is culture, what is the restoration of monuments—this is one thing—and the other which is television and radio.

295. You agree that is within it?

(Mr Oreja) I am also responsible for television and radio in the Commission. I can tell you that in the last Council of Ministers of Culture on 11th June there was a common position on a new Directive. There were votes against by Sweden, and abstentions by Greece, Belgium and Ireland, but all the other States accepted this common position. There had been a first reading in the European Parliament and now it will come back (we are finishing some linguistic questions) on 9th July to Parliament. There we have an important Directive on the matter which you have mentioned, which is television. There is a Directive on Television without Frontiers. What does it mean? It means we are trying to have in the interior of the single market a free circulation of services. As you know there is a system of quotas in many of the Member States, countries like Sweden and France, in practically all Member States—only five Member States do not have a system of national quotas. This, of course, is an interference in the working of the Common Market. Therefore, there is a Directive. The Directive has the sole purpose of achieving free circulation of services, although it includes provisions concerning the defence of minors, public morality, publicity, and the right of response. These are the matters which have to be in some way regulated but certainly as an adjunct to the freedom of circulation. There was one principle that was included by the Commission but which was not accepted by the governments—and I accept the position of the governments and I accepted the

[**Mr Shore** *Contd*]
common position on 11th June—which is that 50 per cent of the broadcasts and programmes should be European. But this was not accepted by the governments and it was modified by the addition of the phrase "whenever practicable". I accepted this common position on 11th June and this will now come to the Parliament and will be discussed in the Parliament. That means that with regard to television each country is free to do just as it likes, which is completely normal, the only thing is that there are common rules aimed at ensuring free circulation, especially with regards to matters such as those I mentioned.

296. I would regard these as very contentious matters indeed, and I would expect different countries with their different traditions to have, for example, very different views about what is acceptable in terms of public morality, protection of children, because we all have our different histories in these matters and we have our different approaches. I would have thought too that the business of trying to lay down a quota for European preference, as it were, in showing television is bound to be for us, I think, particularly offensive because we share a language with several hundred million other people of originally European origin who inhabit different continents, and quite naturally we should wish to give, reflecting our own public opinion, as much preference to those as we think fit.

(Mr Oreja) Sure.

297. Why is this a suitable matter for the Commission at all to be interfering in?

(Mr Oreja) It is only to guarantee—that is all we are doing—the free circulation of services. Today in the area of television, this is not something which is concentrated in a single Member State—because we have satellites and there should be some kind of regulation in order to guarantee this free circulation of services. This is the reason we made the proposal and apart from the small matter of publicity in three Member States, all the other Member States accepted unanimously to have this kind of very limited regulation. But this is a separation which I quite respect, the idea of thinking it is better not to have any regulation whatsoever. I can assure you, you are not the only one who has this position. A new minister of a new government of a Member State presented that position in the last Council—a Member State, a country, which I know very well—and it is exactly the position which corresponds to your position. We are very respectful. Finally, these Member States also accepted the common position.

Chairman: We are not the Heritage Committee of this House. It is a fascinating issue and we could go on but we must move to other areas. I should say this to my Committee rather than you because you have been answering the questions we have put to you. Let us get on to the role of the Commission which is under examination in the IGC, both in the context of enlargement and in other contexts.

Mr Wareing

298. In your very helpful paper, Commissioner, you referred to streamlining the institutions of Europe in preparation for enlargement. I believe the Commission takes the view that there should be a reduction in the number of members per Member State in the Commission, in other words each Member State should only have one member of the Commission.

(Mr Oreja) Yes.

299. I wonder how that would work with enlargement because there is a vision of perhaps 27 members of the European Union. Do you see a maximum number of Commissioners? Do you see the possibility that some Member States will not have a Commissioner, or that maybe we might have the sort of United Nations Security Council solution where there are so many permanent members and so many non-permanent members? What is your view on the developments in the Commission?

(Mr Oreja) Let me first answer the last part of the question. I personally would not be in favour of a Security Council mechanism. This was not discussed in the college but I will give you my view. I would not be in favour of that. I think the Security Council was a wise and intelligent method which was tried in the San Francisco Treaty in 1945 but I do not think it corresponds to the Community we have now with 15 Member States or more; I do not think it is a good system. On the number of Commissioners, this matter was discussed in the college, it has been discussed but not in depth in the Intergovernmental Conference; I imagine it will come up for debate, probably in a few weeks or months' time. In the Commission, after a long discussion, the position was that there should be one Commissioner per Member State. In the last paragraph in its Opinion, the Commission says the Conference should take into consideration in the future, in view of enlargement, the Commission's composition and structure. That is, the doors are not quite closed to reconsideration in the future, but for the time being the Commission, after a long discussion, decided there should be one Commissioner per Member State. I personally—and I speak on my own behalf and not for the Commission—would say that this was the view I had personally two years ago when I arrived at the Commission. I have more doubts now. I see the advantage of having one Commissioner per Member State. I see also the advantage of having a smaller Commission with fewer Commissioners and with a high degree of legitimacy of the Commissioners' role—especially that of the President of the Commission, giving him or her a wider possibility of selection of Commissioners in relation to Member States. I am just expressing a personal view. The position of the Commission is clear today, that there should be one Commissioner per Member State. You say, what is going to happen with 27 Member States? Well, we do not know when there will be 27 Member States in the Community. Secondly, it would not be so extravagant to have a Commission with 27. Imagine how many governments there are with more than 27 members. I think this is something that might come in the future. For the time being the idea of being a representative of a national Member State in the Commission perhaps

[Mr Wareing *Contd*]

permits more easily the association of the people, the citizens, to an institution like the Commission. I have just come from Ireland and I am visiting Ireland again tomorrow to participate in the Cork meeting. The position of the Irish Government—and the statement made only 48 hours ago by the Taoiseach was very clear—that Ireland would never accept that in the Commission there is not an Irish national. I think this is a priority and, as you know, changes in the Treaty need unanimity, so I imagine this is a clear, fixed and definite position, at least for the time being. There were several remarks made by the Taoiseach and one of them was very clear in that direction.

300. I do not think it is going to be all that long before you are going to have a number of Eastern European states, Cyprus probably, as members of the European Union, and I would have thought we were looking to the first few years of the next century when these will be members. It seems to me that in a sense this is tied up with two things. One is the Europeanisation of the peoples of Europe, so that for example an Italian would not be too worried if there was a German dealing with regional affairs and there was no Italian on the Commission. The other thing which I think probably is even more important is in dealing with the democratic deficit and all of this is tied up with the powers of the Commission. If in fact Member States, and not just the Commission, have the possibility of initiating legislation then one of the problems of representation on the Commission would be set aside. This brings me to the powers of the Commission. Do you feel the time has come when the Commission should not have the exclusive power of initiating legislation? Would not in fact the possibility of Member States, probably Parliament, actually initiating legislation deal on the one hand with the size of the Commission and on the other with the democratic deficit?

(Mr Oreja) You phrase a key question, and this matter is worth discussing at length, certainly. As you know, there are three pieces in the Treaty with regard to the question you have just mentioned. One is with regard to the Commission, which as you rightly said is the institution which has the right of initiative; the right of initiative which makes it different from what happens inside the Member States. It is true that the idea of an institution like the Commission does not correspond to anything in the Member States; it is probably the most singular and original contribution of the European fathers. Certainly the legislators in 1957 had in mind the idea that some kind of initiative should be given to the Parliament and to the Council, and this was included in two articles, article 138B on one side as far as some kind of initiative of the Parliament was concerned, and article 152 for the Council. Parliament or the Council do not have the right of initiative per se but the right to request proposals and these requests should be taken into consideration by the Commission. As you know, there is a code of conduct on the relations between the Commission and the Council and the Commission and the Parliament. I negotiated the code of conduct with the Parliament and it was clear when Parliament raises a question the Commission is not obliged to incorporate it as a piece of legislation, as an initiative, but it should be given the highest consideration. Unless there are good reasons for the Commission not to incorporate the initiative of the Parliament, the initiative of the Parliament should be included. I do not know exactly how this little sentence is in the English version[1] because it is in French that I discuss this with Parliament, but it is clear that the Commission should have good reasons not to include as its own initiative an initiative of Parliament. The same thing applies with regard to the Council in relation to article 152. In the last Council of Telecommunications this week this question was mentioned by one of the Member States, that is to request a proposal from the Commission, and in the meeting of the Commission Commissioner Bangemann mentioned this question. I would say there that I think the originality of the Commission should not disappear. That is the Commission as being the guarantor of the Treaty, having the right of initiative and defending the public interest, I think these are three principles that should be maintained. You mentioned before the idea of the Italian or the German and how can one or the other defend their interests. I tell you very honestly, I had to defend the national interests of a Member State as foreign minister for five years, and it was not a great effort for me when I arrived at the Commission to try to defend now the European interest. I think it is possible. Nevertheless, I think it is useful if there is one Commissioner per Member State. He can better explain things about the country he knows best, but ultimately I think he should have in mind the idea of defending the common European interest.

Sir John Stanley

301. Commissioner, in answer to an earlier question you said that the Commission favoured in this current Intergovernmental Conference the communitisation of immigration and asylum which of course would give the Commission the exclusive right of initiation of directives in that area. Could you kindly list for us, Commissioner, the other subject areas in both the second pillar and the third pillar where you believe that at this Intergovernmental Conference there should be communitisation and therefore the right of initiative of legislation given to the Commission?

(Mr Oreja) With regard to the third pillar first, and then I come to the second. In the third pillar there are two areas where I think we should exclude the communitisation, that is in everything connected with penal co-operation, criminal co-operation, judicial co-operation in criminal matters.

302. Exclude that.

(Mr Oreja) I would exclude that and everything which relates to the police. I think these two areas, to make it simple, I would exclude these two areas. Then there is the enumeration of Article K1, the long enumeration of K1. In K1 you have the problem of

[1] According to Art. 3.3 of the Code of Conduct where pursuant to Art. 138B Parliament requests the Commission to submit legislative proposals, the Commission "*shall take the utmost account thereof*".

[Sir John Stanley *Contd]*

asylum, the problem of visas, the problem of immigration, the problem of customs co-operation, external frontiers. These are areas where I think we should discuss on a case by case basis which could be communitised, taking into consideration that already in the Treaty. Article K9 has envisaged the possibility of a *passerelle* (or bridge) to Article 100c. That is that a certain number of matters that are included could be, not communitised but passed through the *passerelle*. What would be the possibilities of some of these activities being fully transferred to the first pillar? I mentioned these to see on a case by case basis which ones could be transferred to the first pillar.

303. The only ones you would exclude from the possibility would be police and what, criminal sentencing, things like sentencing policy?

(Mr Oreja) Yes. Judicial co-operation, criminal matters, police, these I would exclude.

304. Just those.

(Mr Oreja) With the others I do not mean that necessarily I would have to include them all but I think on a case by case basis we should see what can be communitised. Now, there is one question where I could have some doubts. What should be the role of the national parliaments in these cases when it is communitised? In principle, I would like not to interfere with the first pillar working as it is, but perhaps it could be taken into consideration if—in matters of the third pillar—the national parliaments should not have a word to say. That is a matter that I leave open. Now let us come to the second pillar. My concern of the second pillar is not a matter of communitisation, I do not think it is an area where we should envisage communitisation. Probably I have the deformation of a former diplomat and foreign minister so I am very tempted by my old responsibilities. You see, the problem with the Common Foreign and Security Policy is that probably the mechanisms which exist do not work properly. I think we should make an effort to make them work better. We should perhaps distinguish between Common Foreign and Security Policy and Defence. With regard to the Common Foreign and Security Policy, is it not a surprise that there is not at the Union level a centre of planning as it exists in all the foreign ministries in all the countries of the world? There should be something which is similar to a planning unit which draws on the information of the Member States, of the Commission, of the Council. That appears to be reasonable. It does not mean that the foreign policy of the Member States is going to disappear. Of course not, that would be absurd, but are there some actions which should be pursued in common by the Member States. If there are, should we not try to find the mechanism that makes things work better? This is my main concern. Would there not be some cases where perhaps voting should be changed from unanimity to majority voting? My main concern in foreign policy is to have instruments which work better than now. For example, you have a thing called the political committee but the political committee is formed, as you know, by the political directors of the Member States. These political directors, where do they work? Where do they prepare the decisions? Only in the Member States. Would it not be more reasonable that they meet more often, in one place, and that they try to put together all their knowledge, all their information, and prepare better the meetings of COREPER and then of the General Affairs Council? How could we ensure that the General Affairs Council works better? The General Affairs Council, as you know, has two sides, one is the foreign policy and the other is all these matters which are not resolved in the other councils. I think we should make an effort that the General Affairs Council works better. I am convinced that most of the members of the General Affairs Council are not happy with the way it works. I think the effort we should make now, is rather than make many major changes in the Treaty, with regard to the second pillar, it is to make the second pillar work better. This is my opinion at least; it is the opinion of the Commission—to make things work better. One last word with regard to this. In a foreign policy position there are always two ingredients, one is, so to say, the diplomatic ingredient and the other is the commercial ingredient. This is often a source of complication in the Member States—between the Foreign Minister and the Minister of Commerce or the Minister of Economy. We have all lived with this somewhere or other. This is even more difficult in the Union. In the Community, the Commission has the competence on commercial matters. It has not on diplomatic matters; it has a shared right of initiative with the Member States but only the right of initiative. I think things would function better if the Presidency and the Commission could work more together because finally there is one approach that has two ingredients: the diplomatic ingredient and the commercial ingredient. Sometimes one and the other go in parallel but not in coordinated action. I think we should make it work better. My conclusion is, let us make it work better. With regard to the second pillar, it is not so much a problem of communitisation but of better working.

Chairman

305. If working better means not everyone agreeing but most agreeing and overriding or going by majority towards some decision, that is what working better means, improved machinery, can you give us an example of where that would operate without it coming up against the national interest of the country that was being overridden or that was not part of the majority? We can see working better meaning everyone unanimously agrees, that is fine, but if the proposition working better means that one country is going to be overruled, on what sort of foreign policy issues—we are a foreign policy committee—would you imagine that countries could be overridden or majority prevail against a minority of one? What kind of issues?

(Mr Oreja) One of the ways that I would react to your question is to raise what we call the Petersberg actions: everything peacemaking, peacekeeping, crisis management, these are what are called generally the Petersberg actions. Probably if we had had this meeting five years ago I would not have mentioned

[**Chairman** *Contd*]
the elements I just mentioned now. We would not have envisaged the possibility of including these ideas in the Treaty. Things have changed since 1989 and I think that now many Member States envisage the possibility of including these activities inside the Treaty. We have three papers, as you know certainly. One is the result of the Berlin Conference of NATO in the first days of June. The second is a paper that was presented by the Spanish Presidency on behalf of the Western European Union, with regard to the relation between the Western European Union and the European Union, which is a very interesting paper with different proposals. The third is the paper that was presented recently by the Finnish and Swedes with regard to what kind of actions could be included from the Western European Union, and incorporated into the European Union. I think these three papers are very interesting, to see what is the framework in which we can now move with regard to these actions. These four actions—peacekeeping, peacemaking, crisis management and even humanitarian activities—these are envisaged now, even by some countries that were called neutrals before and militarily non-aligned now, such as Sweden and Finland. They accept that these could be transferred to the Treaty. I think with regard to these matters we could envisage that we do not have to make the decision between majority voting and unanimity. I think that otherwise there could be a majority, super majority, that is different levels of majority, and even something which is rather new as a concept, that is the constructive abstention. That is where a Member State decides not to join the action of the other Member States but does not prevent the other States from going along in a certain direction. This is a matter that could lead us to a matter that we have not discussed here today but which is essential, that is the problem of flexibility. I think the problem of flexibility is something which has probably its relevance especially in the second pillar and also in the third pillar. I think it is very important that this matter should be discussed by national parliaments and certainly by the Intergovernmental Conference. I think we should find some kind of solution. This has not been discussed. I think it is essential, that is to foresee the possibility that a certain number of States go along and take some initiative and one State decides to get out of that decision.

306. An initiative in the name of the Union and under the Treaty?
(Mr Oreja) Yes.

307. Even though they are not unanimous?
(Mr Oreja) Yes.

Mr Rowlands

308. As you have unfolded your thoughts and ideas, let us take the one about asylum and immigration. Surely who comes into your country, who is allowed to stay in your country is an absolute fundamental sovereign right of that nation state. You are proposing that it be transferred to the European level and presumably become subject to Qualified Majority Voting, is that right?
(Mr Oreja) Yes.

309. That is what you are saying?
(Mr Oreja) Yes.

310. I cannot see how you say that is not extending the Union's activities into new areas. You say this IGC should have been making the Treaty work, this is not making the Treaty work, this is a significant transfer of further power from nation state to Union, is it not?
(Mr Oreja) Yes. What I mean is that this is a possibility that is open in the Treaty. What I think is the way it has worked, this third pillar, has not been satisfactory. I understand this is a matter for discussion. The problem of immigration is a problem that has been very much discussed over the last years, especially after the opening of frontiers of the countries of the old former democracies and after 9 November 1989, and this is a matter of discussion, certainly. What I think is that if this Single Market exists, if the free circulation of people, of goods, of capital exists—and we accept this free circulation—I think it is inevitable that the Union also have external frontiers. We do not have external frontiers today as the result of a matter that concerns two Member States; the controversy between these two Member States has prevented those external frontiers. I will not come to that matter today. If this matter is solved finally, between these two Member States, in a reasonable way, then probably these external frontiers will exist. Then there will be the different points of entry—the different ports and airports of the different Member States—and this will permit really a good circulation of the people and goods inside these external frontiers. Then, the decision that is taken in one country concerns the others, I can understand that. I know that is a very sensitive issue and it is especially a very sensitive issue for an island. Certainly you understand that very well, and I am sure that it is not the same position for an island as it is for a country that is surrounded by other countries. Probably the sensitivity of the citizens of one country that is an island is not the same as the sensitivity of the citizens of a country that is surrounded by other countries.

311. May I ask you, as someone who is obviously closely involved in all these things, doing a rough head count how many States do you reckon support this position that you have just presented to us in relation to immigration and asylum?
(Mr Oreja) It is very difficult. I cannot tell you because there were statements made by different delegations. I am not in a position yet, we are just at the start.

312. Do you think it is a runner? Do you think this one is going to run as a very serious proposition?
(Mr Oreja) I think so. I think there is a view in most Member States that immigration is a European problem and it will soon have a European answer. It is very difficult to make a guess now but I think there is a majority of Member States which are in favour.

Mr Shore

313. Could I quickly put one question to you. Is not the problem that you have described about free movement and immigration, is not that problem best dealt with by a Schengen type arrangement under which those countries which are comfortable with opening their frontiers to the movement of other people without constraint can go ahead with that and those who do not agree with it should retain their border controls as we do here in the United Kingdom?

(Mr Oreja) Yes, I think it is a first approach. I think it is a first step but I think it is an imperfect step. I think it would be more perfect if all shared the same views, that would be the ideal. Therefore I do not think Schengen is an ideal solution, I think it is a first step.

314. I would have thought that was an example of flexibility.

(Mr Oreja) It is, but I think it is a bad example. It is a bad example because a good example would be Schengen inside the Treaty, and not outside.

Mr Gapes

315. Can I take you up on one of the things you have said previously when we were talking about the Foreign and Security Policy. The way you were explaining the position you had, I was not clear because if I read this document of the Commission, the Commission's opinion published shortly before Florence "Reinforcing Political Union", it makes clear explicitly that Qualified Majority Voting should be the norm for a Common Foreign and Security Policy. If it is the norm then clearly it is not just a matter of looking at Petersberg tasks and extending into the European Union certain matters, it actually changes the whole relationship of the Member States to the European Union. The problem that I have—and I say this as somebody who is pro European, pro European Union, believes in greater integration and all the rest of it—is that I cannot foresee circumstances under which on an issue of vital national interest, relating to relations between this country or any other large country in the European Union that we would be in a position where we could accept happily being out-voted on a matter to do with foreign and security policy. Therefore I cannot see how you would actually in reality be able to make decisions by out-voting large countries like the UK, France, Germany, Italy or Spain or a small country even, Greece or Sweden? It just seems to me this is trying to create structures which look neat and tidy but do not take account of the realities of international politics.

(Mr Oreja) I quite agree. It would be extremely dangerous for the future of the Union to take decisions on matters of foreign policy against the national interests of Member States. It would be very dangerous to adopt the decision by majority or qualified majority or super qualified majority that obliges the Member States to join a decision which is against its national interest. I think that would be a very bad approach. There is a word which is difficult to say in English because it has probably another meaning, but I am sure you will understand what I mean. It is the word solidarity but let me say the words *solidarité* or *solidarität* are better than the English word. I think it is essential. I could never understand the European Union working if the principle of political solidarity—I do not mean economic solidarity now I mean political solidarity—is not at the centre of all reflections and of all organisations. Imagine something that is against the territorial integrity of the Member State. How could a decision be taken by majority, by all those Members affecting the territorial integrity of the country? What I am saying is not just something academic, you imagine what I am saying. The sensitivity of some Member States with regard to some parts of its territory which are not in the European Continent, you can understand that I think the sensitivity is very respected and respectful. So I could agree with your line of thought. Moreover, I also think that unless there is some kind of extreme case, as this one, there are other occasions when a Member State would not like to join a decision but could accept that others take the decision. This is something which is very clearly mentioned in our opinion, when it says: "There are also times when some but not all the Member States wish to take action on a specific matter. It should be possible for such initiatives to have the status of Union measures as long as they are not against the general interest of the Union and provided that the latter is duly represented". I can tell you that we did not write a paragraph like that all of a sudden. It was the result of long reflection, before we put this into our opinion. We think that it is an interesting approach and which corresponds precisely to the idea of flexibility. This is a way forward we understand. Personally I do not like the word flexibility, I think it is full of different interpretations, I prefer the way to say reinforced co-operation. I see reinforced co-operation as a certain number of States deciding to advance, reinforcing their co-operation in a definite direction, letting others stay where they are. I do not think this is possible in the Single Market because there would be a breach of the Single Market; reinforced co-operation and flexibility is very difficult in the first pillar. There is one exception— monetary union— which is in the first pillar. Otherwise I think that with what the Single Market represents, it would be very difficult to accept the flexibility of reinforced co-operation in the first pillar. I think it is possible in the second and in the third pillars. The ideal area where this reinforced co-operation could work is in the second pillar.

316. Is there not a problem that you are then in the position where the minority of States who feel particularly strongly are faced with a situation where a majority goes ahead in the name of the European Union rather than having an ad hoc coalition for the specific issue? My problem is that all States are then, even if they are known to be against the decision, nevertheless associated with it and that the Union as a whole has taken the decision in the name of the Union even though it is clearly not one which is acceptable to a significant minority.

(Mr Oreja) Yes. The problem has its exact

[Mr Gapes *Contd*]

application not in the second pillar but in the third pillar in the case of Schengen. The reason why Schengen exists is really because there were Member States that, because decisions requested unanimity, prevented progress. Then the others said: "Well, we will make it work outside the Treaty". This is one approach. I respect very much those who think this is a good approach. I do not think it is a good approach, I would prefer that this works inside the Treaty but this was something that was tried at the time, and Schengen works in a way in a certain number of countries. It started with a very small number of countries, others have joined, others have not yet joined. This is something that we will be discussing at the Intergovernmental Conference. One of the most difficult problems of the Intergovernmental Conference—probably because I do not think many have a very clear idea of how it should work—is the problem of flexibility of reinforced cooperation. On other subjects, you are in favour or against—Qualified Majority Voting, unanimity. This is more dogmatic. You are in favour of unanimity because you think that one Member State has the right to prevent what others think is right. That is your view. I do not mean your's but a position, this is a position. That is very fundamental. You belong to one school of thought or to the other. The problem of flexibility, I think it is not so much a dogmatic question but a problem where we must try to have clear ideas. I need them and if you, as such a distinguished Committee, could give the Commission ideas with regard to the problem of flexibility you can be sure they would be appreciated.

Mr Wareing

317. I think you found some difficulty in providing a particular example of where qualified majority voting could be used; perhaps you could have chosen some hypothetical example in answer to the Chairman's question before. I wonder whether it is helpful if I put some hypothetical examples to you. Like my colleague I am very much in favour of the European Union, integration, and I would like to see it possible to have a Common Foreign Policy covering just about everything but there are practical difficulties. For example, Britain has one or two difficulties arising from the old British Empire. We have special relations with China over Hong Kong and we have still a problem with Argentina in relation to the Falkland Islands. I would have thought they would not be the sort of policies that could be subjected to Qualified Majority Voting. If I may give another example, if the European Union decided to support Britain and say that for all time the Treaty of Utrecht and Gibraltar should be there I think Spain would quite rightly say this is a matter between Britain and Spain.

(Mr Oreja) Yes.

318. On the other hand, if in fact the European Union were to say that there was a regime in a particular country, I will instance now, say, Nigeria, and that there should be sanctions against that country then I think that is an area where I would be prepared to agree to Qualified Majority Voting. I think that is the difficulty. If we perhaps look at those sorts of examples that helps you with your case for Qualified Majority Voting.

(Mr Oreja) I think that is very interesting and I think the examples mentioned are very good. You mentioned the Falkland Islands. Remember the support of Great Britain in 1982 with regard to the Falkland Islands. You remember the ten Member States then—because Greece had just joined the Community, and Spain and Portugal had not yet applied — and the way the other Member States backed Great Britain in the problem of the Falklands. This means what? This means to come back to the word I mentioned before— solidarity, that is all. There was not a conflict between two Member States, that is different. If there was a conflict between two Member States, and you mentioned one of the issues, then it would be more difficult. The idea of sanctions you mentioned, I think that is a good example. I am sure not all agree on that area but certainly I do. I think this is the kind of approach needed. Remember other cases where common action has been taken. Remember the case of Rwanda where there was a common position by the Union. There is a doubt some of us have: should the new Treaty include a certain number of objectives that should be common actions in the second pillar? In a way they already exist. As you remember, J1 gives some kind of objectives. Should it be more precise? Should it say that actions with regard to Central and Eastern Europe or the Mediterranean should be common actions? And in that case should there be unanimity with regard to the common actions? Could we specify which are the actions which perhaps could be enumerated by a decision of the European Council and then implemented by majority voting by the General Affairs Council? That is a possibility. As you remember there is a list that has a name because of the place where it was decided. The Council in Asolo made a list of different priorities. Should these priorities be left only for the decision of the Council or should they be included in the Treaty? This is a matter for discussion and certainly we will discuss this. Certainly your comments on these matters would be very much appreciated.

Chairman: In the remaining few minutes we want to return to other issues but colleagues still want to come in on this matter. Sir Jim Lester.

Sir Jim Lester

319. From a lot of experience of asylum and immigration legislation in this country I know that the Commission was very reluctant originally to get involved in this question and it was pressure from Member States which brought about the idea that you could operate asylum and immigration as a Community function.

(Mr Oreja) Yes.

320. How does that interrelate because inevitably it interrelates with the communitisation of race relations and racial harmony within the European Union? I speak from a country which has a Race Relations Act.

[**Sir Jim Lester** *Contd*]

(Mr Oreja) Yes. I am very conscious of the sensitivity in this country with regard to the problem of asylum. I have seen in the papers the discussion that is taking place these days on the question of asylum. Certainly this is a problem that has arisen. It is a difficult problem. What is understood by asylum? Is it people who have been persecuted for political reasons or for economic reasons? What is the scope of this asylum? This is a matter that we have lived with for years. Now I see there is a special sensitivity in this country. In principle this is one of the ideas that is enumerated in Article K1 and it is not one of those that is excluded. On the contrary, we think that the problem of asylum—bearing in mind the difference of situations, of those who are persecuted and those who apply for other reasons, which should be taken into consideration— we consider that asylum is one of the matters that should be of common concern, of European concern and that should be transferred from pillar three to pillar one. This is the position that we now have in the Commission. I think this is a position that is shared by most of the Member States. I cannot tell you precisely which States because we are not as far in the Intergovernmental Conference, but we shall have the opportunity of seeing this next week.

Chairman

321. The European Court of Justice is mentioned in the Commission proposals. There are some views here, Commissioner, that the Court is inclined to move away from strictly legal interpretations and produce political interpretations which worries some of us. Would you have a comment on that?

(Mr Oreja) On the Court of Justice?

322. Yes?

(Mr Oreja) First, the Court of Justice is an institution of fundamental importance for the Community. I think the Court of Justice, among other things, has been instrumental in launching the Single Market and ensuring something which is essential in the way the Community works—which is a level playing field. We understand that there the European Court of Justice played an important role. There are improvements certainly which can be made in the operation of the Court to make it more efficient but we think it would be a mistake to remove retrospective effects of its judgments—I know that this is a sensitive issue but this is the position—otherwise no sanctions for infringements against the Single Market would be possible. This is something which we insist on very much. We think it would also be a mistake to make the Court subject to political pressure or review. It is very important to keep the independence of the Court of Justice. There is another matter. We discussed before the number of Commissioners; there is another problem, which is the number of judges. How many judges should there be? If there are 25 Member States or 27 Member States should there be as many judges or should it be divided in chambers? Should it work that way? Could we perhaps come to a compromise between judges and advocate-generals, that is that each State has either one judge or an advocate-general? These are matters which will probably be discussed in the Intergovernmental Conference. I consider very important the role that is played and will be played in future by the European Court of Justice, especially, as I said, in ensuring the level playing field, in everything related with the internal market, the Single Market. Of course, sometimes we are not happy with the decision of the Court but that happens not only with the European Court but also a national court. Certainly I think the role of the Court is extremely important and we should take it into consideration.

323. What about either a right of appeal or a right of the Council of Ministers or somebody to take the Court decision and say: "No, that is not what we intended when we made the rules of the Treaty, we are going to change it"? Here in Parliament if the courts reach a certain decision our Parliament has the power to change the law. I do not think the Council of Ministers or the Commission has any power to change a ruling handed down by the European Court of Justice; is that something you are happy with?

(Mr Oreja) Not the Council but the Conference, the Intergovernmental Conference, can change it. That is the way it works. If there is something which you are not happy with, we have the Intergovernmental Conference to change the Treaty, that is the way.

324. In theory, it is within the powers of the Conference to say: "This ruling by the ECJ or that ruling is not in accordance with what we intended in the Treaty and therefore we are going to change the Treaty, change the law of the Union to invalidate this ruling"?

(Mr Oreja) That is right, that the Treaty can only be changed by the Intergovernmental Conference.

Sir John Stanley

325. Commissioner, could I pursue that absolutely fundamental point further because the reality is that the European Court of Justice and the interface it has with the Treaty changes which you have referred to does produce a uniquely undemocratic situation amongst the democratic members of the European Union. As our Chairman has rightly pointed out, in any nation state where the unelected judges produce a case law decision that the elected parliamentarians—the elected legislature—do not feel happy about, it is a relatively simple and swift process to change the law through the democratic process. The fundamental democratic deficit in this area is that though theoretically the law can be changed, you have to wait for the next Intergovernmental Conference and you can only achieve a change if you can secure unanimity amongst the EU Members to that change.

(Mr Oreja) Yes.

326. Now, is not the Commission exercised about this? We have a position in reality where the European Court can make law which can stand for years, can stand almost indefinitely with no democratic basis for producing an early and swift change. Is that not a matter of concern and should not the Commission be addressing this issue? Surely there is a profound democratic deficit here?

[Sir John Stanley *Contd*]

(Mr Oreja) Certainly if what is in the centre of the discussion is the matter of an Article of the Treaty, an article of the Treaty can only be changed by the Intergovernmental Conference. There is no other solution. This is one specificity. I must say probably the British system is different from all the others, just thinking of the role of the House of Lords which is different from what corresponds to an upper Chamber in any other Parliament. But certainly this is a matter which can be discussed—this is one of the reasons why the Intergovernmental Conference is meeting now.

327. Surely it must be a major priority issue for the Commission to try to address this. Commissioner, can you refer to any national Member of the EU where there is not the ability of the elected democratic parliament to change the law relatively quickly if the unelected judges produce a decision which will be binding in case law terms which the elected representatives feel is not acceptable? I do not believe there is any country in the EU where that change in the law cannot be made relatively swiftly by the elected parliamentarians. Surely there has to be some democratic accountability of the European Court?

(Mr Oreja) Let me say one thing. The United Kingdom is the only country that raises this question. That does not mean that it does not demand a great respect on the part of the other 14 Member States. But the possibility of an Intergovernmental Conference does not mean that you must wait for a very long time. You can call an Inter-Governmental Conference at any time and you can change any Article of the Treaty. The problem you raise is a problem that is unique as far as I am informed and no other Member State has raised this question. That does not mean that it should not be raised. We are at the right time to do so. You said before that it takes time before an Intergovernmental Conference is called but we are in the middle of an Intergovernmental Conference, why not raise this question? You can be sure that we would examine it carefully in the Commission.

Chairman

328. Could we just have a question on national powers? We have touched on parliamentary issues but do you have particular views, Commissioner, on how national parliaments like this can play a fuller part in the business of the European Union along the lines suggested in the Maastricht Treaty?

(Mr Oreja) It is very difficult to see how you can do better. You are an example of the way you can pursue the accountability, in the work of the Community and of the Commission, and especially of the Government. I think this is the very important role of national parliaments. National parliaments should have first good information of what is happening; information on the initiatives of the Commission should come immediately to the national parliaments, and national parliaments should have time to reflect on and discuss these initiatives. I think there should be frequent meetings of the special committees for European matters with the specialist committees of the European Parliament. The meetings of the committees on European affairs from the different national parliaments—perhaps in an organisation as one which exists today, COSAC—could be pursued in the future, perhaps making it work better. I am not in favour and the Commission is not in favour of creating a new forum for discussing matters like, for example, subsidiarity. You know there is a French proposal for creating the kind of forum where all the national parliaments should discuss the problem of subsidiarity before it goes further in discussion in the Council. The Commission is not in favour of creating these new organisations but emphasises very much the accountability of the governments to the national parliaments and the co-operation between the European committees of the different parliaments. Perhaps through COSAC, making it work better than it has worked so far. Everything can work better I think. Experience has existed since 1991, the first meeting of COSAC. Personally I have attended different meetings of COSAC in both capacities, European parliamentarian as well as a national parliamentarian—I think it is useful but it can be done better. We do not think it is very useful to create a new institution.

Chairman: You raised the question of subsidiarity; could we have a question on subsidiarity from Sir John Stanley.

Sir John Stanley

329. Could you give us your views, Commissioner, as to the Commission's view of the British Government's proposal that we should take the opportunity at this Intergovernmental Conference to enshrine in the Treaty the basic subsidiarity guidelines that the Commission is now working to which would have the effect, of course, that if the Commission failed to respect subsidiarity and dealt on a Commission basis with something which the Treaty provisions on subsidiarity would result in those matters being left to nation states, the nation states would be able to litigate before the European Court on subsidiarity. In those circumstances, Commissioner, you might be more enthusiastic than you were a few moments ago in answering my previous question of having a quick means of altering decisions handed down by the European Court. What is your view as to the British Government's proposals that subsidiarity should be embodied into the Treaty in this Intergovernmental Conference?

(Mr Oreja) This was an important debate in Member States and the European Parliament from 1990 to 1991. I happened to be rapporteur on subsidiarity in the European Parliament—after Giscard d'Estaing who was the first rapporteur, I was the second rapporteur on this matter. I had to concentrate very much on the matter of subsidiarity. I tried to read a certain number of things, first to understand what subsidiarity was. As you know it was mentioned for the first time in 1931 in a Papal encyclical, and then it passed to politics. As you probably remember, there was a long discussion and there were two schools of thought: if subsidiarity should be included in the preamble of the Treaty or in the text of the Treaty. I was in favour of including it in the text, I was very much in favour of that. Finally, it was unanimity.

[**Sir John Stanley** *Contd*]
therefore it was included in Article 3B of the Treaty. We had discussed it so much with regard to Article 3B and personally I was so much involved in Article 3B inside of the European Parliament that I can tell you that I would not like to move anything out of Article 3B. I know nothing is perfect but I do not see how to perfect Article 3B. I do not know—I mean if you gave me ideas I would appreciate that. I cannot see how to make it better. I think the way it is presented with the three different paragraphs—the idea of subsidiarity, the idea of proportionality, the scope of this subsidiarity spelling out the reasons why initiatives should be taken at the European level and not at the national level, what the reasons are—I think it is so well balanced and so well included inside the Treaty, that you have a legal basis that can be invoked by anybody before the courts, that I think it should not be moved. It is true there was a British initiative taken in, as far as I remember, November 1992 at the European Council in Birmingham; there was a declaration which was approved by the European Council and then recalled again in the European Council in Edinburgh in December 1992. I think that the elements of this declaration are all right where they are, as declarations. I would not be in favour of including them in the Treaty. I think the Treaty is well enough with Article 3B with its three paragraphs, I do not think it is necessary to change them. But of course these are ideas, and perhaps this might be also a matter of discussion. I can tell you that in the discussions we had in the Reflection Group as well as in the first discussion in the Intergovernmental Conference with regard to this matter, I feel that the large majority of Member States are in favour of leaving Article 3B as it is.

Chairman: A final question because this has been a marathon session and we are grateful to you, Mr Oreja.

Mr Rowlands

330. On the subject of flexibility, you defined it for us a little earlier on and I was rather surprised in the limitation you thought this principle would have. You said it was going to apply to pillar two and pillar three but you did not think it had any real application to pillar one. I think I heard you say that. I must say our own Foreign Secretary giving evidence a couple of weeks ago to this Committee discussing the word "flexibility" said this: "What the French and the Germans appear to be acknowledging is that as we look to the European Union in the future particularly taking into account enlargement, of course, with 12 applicant Member States then we may have to get used to the fact that on a permanent or semi-permanent basis there will be members integrated to different degrees." The Foreign Secretary was not talking about pillar two or pillar three, he was obviously referring to pillar one. He was raising quite fundamentally the issue of whether the Maastricht Treaty, and indeed the Treaty of Rome, the *acquis communautaire* would have to be simply imposed on every new applicant in the future which I always read to mean that is what the Treaty of Maastricht said and so on. Do you think this broader view of flexibility, as defined by our own Foreign Secretary, has a chance of being ground in within IGC?

(Mr Oreja) I hope not. I have read with great attention the evidence of the Foreign Secretary in this Committee. I read the evidence of the different personalities who come here because I think it is extremely important.

331. Alarm bells rang in your mind when you heard that.

(Mr Oreja) I think it gives a clear idea first of the principle of accountability. I am very much in favour of that, I think it is essential. With regard to what was mentioned, especially with regard to the Kohl-Chirac proposal, my interpretation of the Kohl-Chirac proposal, and I think the impression of everybody, is that this concerns the second pillar. I think that is clear. If you read the letter of the Head of State and Head of Government, what is envisaged is not the first pillar but the second pillar. I think the idea is that the European Union must take the possibility of finding a kind of co-operation, of integration, between those Members who want progress faster and further in the attainment of the objectives of the Treaty possible. The idea of flexibility is not, shall we say, an ignored institution inside the Treaty because the idea of flexibility exists, as you know very well, in the Treaty and has been applied in the different cases of the accession of the Member States.

332. In the form of opt outs? Transitional arrangements?

(Mr Oreja) Accession usually involves transitional periods. When Spain joined years ago, there was not immediately a full application of Community law. It is not a matter of opt-outs, it is a matter of countries that do not meet the conditions at a certain stage and that need a certain time. In regard to the Treaty was the monetary union. Monetary union was considered as inevitable once the Single Market was going faster, and was studied, as you remember, at the Intergovernmental Conference. The idea was to decide only on the matter of monetary union and finally one or two other matters. Now, facing the future I think we should envisage the possibility of this progress —faster and further in the attainment of the objectives of the Treaty—but this should be envisaged only after exhaustion of all other possible forms of action involving all the Member States under the Treaty. I think that the Treaty should not be given the facility of immediately defining the possibility of this flexible approach but I think the Treaty should be first tried and exhausted ——

333. Last resort.

(Mr Oreja) This is an idea, shared or not. Some might think that the idea of flexibility could be defined immediately. Others, especially at the Commission, think this should not be possible. Here I must say that when we discussed—not in depth, because we have not yet discussed in depth—this matter in the Intergovernmental Conference, there was a certain number of principles that were shared practically by all of the Member States. Which were these principles? These principles were that flexibility must

[**Mr Rowlands** *Contd*]

respect the idea first of compatibility of this approach with the objectives of the Treaty and of the Union; second, the idea of the consistency with the institutional framework of the Union; third, this should not be closed to others but give the opportunity for other Member States which are willing and which are able to join to do so at any time. Finally, and this is essential I think, safeguarding the Single Market and the policies accompanying the Single Market. That means it would be excluded, the possibility of flexibility with regard to the Single Market. This is what I mentioned before. I do not mean all the first pillar but certainly the Single Market. These are necessary conditions in my opinion, perhaps not sufficient but certainly necessary, that should be taken into consideration in order to envisage this possibility. Tomorrow probably I shall know more about flexibility because this will be one of the items in the order of business of the Cork meeting which the special representatives will attend.

Chairman: Two very final questions, very briefly please. Sir John?

Sir John Stanley

334. Commissioner, you have very helpfully this morning talked about a lot of the detail of the Intergovernmental Conference. Could I ask you a very broad question. In our European democracy the attitudes of the citizens of Europe towards the EU is ultimately of the most apparent importance. Would you not agree that looking broadly over the last seven or eight years the pattern has been of a rising tide of disenchantment towards the European Union by the citizens of Europe? The no votes of just the three countries which had referenda on Maastricht were much higher than were expected. We were told when we went to Sweden that if a referendum was held now in Sweden as to whether Sweden should be a Member of the EU the referendum would be lost certainly. In this country at our forthcoming general election we will have an unprecedented number of candidates standing on anti-EU platforms in our elections. Against that background, Commissioner, would you not agree that there is a real danger that if the Commission continues to press the process of European integration harder and harder that the wheels of the chariot are in danger of falling off?

(Mr Oreja) Let me come first to something you mentioned about the candidates in the election. What I am not sure is that the candidates will be elected, if the polls are right. Because I have heard and read that the polls say that 56 per cent—56 per cent—of the British people are in favour of the Union. If this poll is correct it means that the majority of the British people are in favour. I think these candidates must be well aware of this result. That is one question. Secondly, it is true that there is a disenchantment. That is true everywhere, or probably in most countries, if not in all countries. But I think that is for many reasons. I think the citizen has some disenchantment because there is a problem of unemployment and he wants to have answers to the problem of unemployment. This is a key issue. We have not mentioned one word during all the session, and I would like to mention it now because I think it is essential. It is the word "competitivity".

335. Competitiveness.

(Mr Oreja) Competitiveness is something essential. Nowadays, with the globalised economy, if we do not have competitive economies and if we do not pursue liberalisation and deregulation in key areas such as telecommunications, energy, transport, it will be very difficult to overcome the challenges, the main challenges that our economies face. For many Member States the policy of liberalisation and deregulation in these key areas, by the Commission, has been essential. If the Commission had not taken the initiatives it did, starting with the Single Market and continuing especially during these last few years in these specific areas, probably it would have been extremely difficult for many Member States to take the decisions that have been taken. I have in mind some Member States in particular, especially one, but many Member States have been affected and you know how many. That is not the case in Britain, Britain started many years ago a policy of liberalisation. It started during the 1980s and other countries started during the 1990s. In 1985 the European Parliament had to bring the Council before the Court because in relation to air transport there had not been one single step forward by the Council in the liberalisation of the transport policy. Thanks to that initiative, the Council had to take a certain number of decisions. The liberalisation of air transport policy was achieved in 1992 —that was the last package— with a period starting in 1996 of a full liberalisation of the process. The same is happening in the area of telecommunications. All telecommunication is liberalised after 1 January 1998, there will be some exceptions for some Member States, but some of them will also liberalise before that date. I think the Commission has played a very important role in this matter of liberalisation. We must explain to citizens, what the role of the Commission is, and of the European Community and the European Union as a whole, in trying to make more competitive our economies in a way that would not have been possible if we had not worked all together. It is not the case of Britain, Britain did it before, but I think in general for most Member States it is necessary to explain the result. There is disenchantment, there is disenchantment because there is a problem of jobs. There is a problem of unemployment and there is a problem of insecurity. I think these are the two main challenges that our citizens face today and we have to explain to them that to give an answer to these matters we can probably do it better together.

Mr Shore

336. Commissioner, is there not a direct link between competitiveness—I agree with what you had to say about that—and flexibility as applied to pillar one of the Treaties? I would argue certainly that it is essential to the future competitiveness of the British economy that we do not go ahead and join with the rest of Europe in a single currency. That is part of the

[Mr Shore *Contd*]

essential competitiveness and flexibility as I see it. My conservative colleagues, although not necessarily myself, although I have certain reservations about it, would argue the same about the opt-out from the Social Protocol of the Treaty. They would argue that it is essential for their competitiveness and it is an essential part of the flexibility of the Treaties. As I understood it your general position was that opt outs are not your conception of an acceptable form of flexibility as applied to pillar one.

(Mr Oreja) That is correct. Exactly, that is my meaning. I am against the opt outs but the opt out is one thing and another is what you mentioned about single currency. With regard to the single currency, there is a certain number of countries that will not fulfil the criteria of Maastricht and will not be able to join; there are some countries who have decided they will not join; and other countries who have decided they will join after a decision of parliament. That is the case of Germany and that is the case of Sweden and that might be the case of other countries. Even if there is autonomy between what the Treaty says and joining the European Monetary Union, it is inevitable that ultimately it will be up to parliaments to make the final decision. This was expressed by some of the parliaments, such as Germany and Sweden, but it will be made probably by other parliaments also. This is a different case, this is a case if you like of flexibility, that is already conceived for monetary union. But I do not think that for the good of Europe in future this opt out is a good system. That is my view but I respect very much the other views on this, and I think the Intergovernmental Conference will be a good forum to discuss all these matters.

Chairman: Commissioner Oreja, we are beginning to touch on great new issues which will require two and a half hours more but we are all human beings and we do respect very much your energy and patience in answering our questions for a very long period. For us this is of great use and help in formulating our views and we are extremely grateful to you and your colleagues. Thank you very much.

Letter to the Chairman of the Committee from Commissioner Oreja

Following my appearance before the Select Committee I would like to thank you and the distinguished members of the Committee. I was extremely impressed by their knowledge and obvious expertise of the subjects which were raised as well as by the precise questions.

For the record, I would like to clarify one issue which was discussed after my intervention, on which I am not sure if I was sufficiently clear and well understood. I refer to the subject of culture and the powers of the Union in this field, which as you know, also fall under my responsibilities in the Commission.

Article 128 of the Treaty confers upon European Union the competence to supplement the action of the Member States in the field of Culture within the framework of the principle of subsidiarity. Cultural policy-making, thus remains within the exclusive responsibility of the competent national authorities.

Under Article 128 "the Community shall contribute to the flowering of the culture of the Member States, while respecting their national and regional diversity and at the same time bringing the common cultural heritage to the fore". This is done supporting and supplementing their action in certain areas such as:

—the improvement of the knowledge and dissemination of the culture and history of the European peoples;
—the conservation and safeguarding of cultural heritage of European significance;
—and the artistic and literary creation, including the audiovisual sector.

To implement this objective, the Council, according to the procedure of co-decision shall adopt measures unanimously. Any harmonisation of laws and regulations of Member States in this field is explicitly excluded by the treaty.

I would therefore like to stress that any Community action in the field of culture does not and will not aim at interfering in the Member states cultural policy making, but rather to encourage and support their actions. This is the case for example of the Raphael Programme aimed to promote and contribute financially to the protection of national heritage. In this context, the requirement of unanimity for such programmes has in practice given rise to delays.

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