

## Canada and the OAS: the Vacant Chair Revisited

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### Résumé de l'article

L'auteur étudie deux questions principales : premièrement, pourquoi le fauteuil du CANADA demeure inoccupé dans la salle du Conseil de l'OEA depuis 1910 et, deuxièmement, le Canada devrait-il occuper ce fauteuil. La réponse à la première question est liée au fait que le Canada se perçoit comme un pays de l'Atlantique nord, faisant davantage partie de l'Europe que des Amériques. Sur la deuxième question, l'auteur est d'avis que le Canada devrait prendre son siège à l'OEA, afin de mieux promouvoir la stabilité de l'hémisphère par des solutions pacifiques aux problèmes économiques et sociaux qui sont à la source du malaise dans cette région.

# DOCTRINE

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## Canada and the OAS: the Vacant Chair Revisited

DONAT PHARAND

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### ABSTRACT

*Two basic questions are examined: first, why has the CANADA chair in the Council's room of the OAS remained unoccupied since 1910, and, second, should Canada occupy that chair. The answer to the first question lies in Canada's perception of itself as a north Atlantic country, belonging more to Europe than to the Americas. On the second question, the author's opinion is that Canada should take its seat in the OAS, in order to better promote stability in the hemisphere through peaceful solutions of the economic and social problems, which are at the basis of the unrest in the region.*

### RÉSUMÉ

*L'auteur étudie deux questions principales : premièrement, pourquoi le fauteuil du CANADA demeure inoccupé dans la salle du Conseil de l'OEA depuis 1910 et, deuxièmement, le Canada devrait-il occuper ce fauteuil. La réponse à la première question est liée au fait que le Canada se perçoit comme un pays de l'Atlantique nord, faisant davantage partie de l'Europe que des Amériques. Sur la deuxième question, l'auteur est d'avis que le Canada devrait prendre son siège à l'OEA, afin de mieux promouvoir la stabilité de l'hémisphère par des solutions pacifiques aux problèmes économiques et sociaux qui sont à la source du malaise dans cette région.*

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## INTRODUCTION

In April 1973, the General Assembly of the Organization of American States noted that there was general dissatisfaction with the functioning of the inter-American system and decided to make a study aimed at its general reform and restructuring. In July 1975, a special conference of plenipotentiaries signed a *Protocol of Amendment to the Inter-American Treaty of Reciprocal Assistance (Rio Treaty)* and, during the last twelve years, numerous studies have been made and discussions held on possible amendments to the other two basic instruments of the OAS, namely, the *Charter of the Organization* itself (*Charter of Bogota*) and the *American Treaty on Pacific Settlement (Act of Bogota)*. In December 1985, a special meeting of the General Assembly of the OAS met at Cartagena to adopt amendments to the *Charter of Bogota*. As part of the background documents for that meeting, was a series of conferences given at the Cátedra de América, University of los Andes, Bogota, and organized by the former Colombian President, Carlos Lleras Restrepo. In those conferences, at least

three of the speakers expressed the wish that the restructuring of the OAS would include Canada's entry as a regular member of the Organization.<sup>1</sup>

In the circumstances, it was felt that someone from Canada should try to determine if it has any intention to occupy its vacant chair in the Council's Room of the Organization. It was also believed that, having regard to the non-governmental nature of this series of conferences, it would be preferable to have a person outside government to express the Canadian position. Hence, this very modest contribution.

Given the above, the limited purpose of this paper is to express a personal opinion on two basic questions: first, why has the CANADA Chair remained unoccupied since 1910, when it was ordered by the U.S. Secretary of State, Elihu Root, and, second, should Canada occupy that chair. To better enable us to address those questions, three points will be examined: first, what has been Canada's position over the years; second, what are the main reasons for and against Canada's membership; and third, whether acceptance of the collective security measures provided for in the *Rio Treaty* constitutes a condition of membership.

## I. HISTORICAL REVIEW OF CANADA'S POSITION ON MEMBERSHIP

Although Canada has shown a certain degree of interest for Latin American affairs over the years, it has yet to take a decision on membership. Some years ago, a CBC commentator is reported to have remarked that Canada continued "to play the role of a sort of reluctant virgin fearful of losing her purity to the seductive Latins".<sup>2</sup> Canada has also been described as the "belle of the ball"<sup>3</sup> and the "Pontius Pilate of the Americas".<sup>4</sup> One observer has gone so far as to characterize Canadian policy on this question as being "schizophrenic",<sup>5</sup> and an American diplomat is said to have qualified our present position as being "half in and half out".<sup>6</sup> Regardless of the accuracy of those various comparisons and descriptions, they do bring home the fact that Canada is perceived as

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1. See *Nueva Frontera*, (Bogota), 3 Sept. 1984, at 16; *id.*, Nov. 1984, at 14; and *id.*, 12 Nov. 1984, at 28.

2. Quoted by J.C.M. OGELSBY in "Canada and the Pan American Union: Twenty Years On", (1968-69) 24 *International Journal* 571-589, at 586.

3. J.C.M. OGELSBY, *Gringos of the Far North*, The Macmillan Co. of Canada, Toronto, 1976, 346 pages, at 3.

4. W.A. IRWIN, "Should Canada Join the Organization of American States", (1966) 72 *Queen's Quarterly* 289-305, at 298.

5. C.J. MORALES, Jr., "A Canadian Role in Latin America", (1985) 12 *International Perspectives* 12-15, at 12.

6. K.B. WILLIAMSON, *Canada and the Inter-American System: a Matter of Choice*, paper based on notes for a lecture at McGill University, 2 March 1973, 21 typewritten pages, at 18.

being unable to make up its mind on whether to become a full member of the OAS in spite of its professed interest.

The degree of interest shown by Canada since 1910 has varied and so has its state of indecision. A review of the literature would indicate that this 75-year period of indecision may be broken down into four periods: 1910-1957; 1957-1968; 1968-1984; and 1984-now.

#### A. 1910-1957: LITTLE INTERESTED AND VERY UNDECIDED

Although membership was restricted at that time to American republics and Canada was not a completely independent State, the Director General of the Pan American Union is reported to have raised the question of membership with the Canadian Prime Minister as early as 1909.<sup>7</sup> After Canada's admission to the League of Nations in 1919, and the Balfour Declaration by the Imperial Conference of 1926 making Canada an independent Dominion, a number of overtures were made to Canada by Latin American countries, particularly at the time of the Pan American Union Conferences of 1928, 1933, 1936 and 1938. Indeed, the Conference of 1936 decided to extend membership to "American states" in order to accommodate Canada and the 1938 Lima Conference occasioned the first serious public discussion in Canada. Membership found favour in certain circles, particularly among French Canadians who viewed this as an opportunity for Canada to join an organization to which Great Britain did not belong. However, the United States could not see a component part of the British Empire as a member of the Inter-American system, and Prime Minister MacKenzie King felt that favourable public opinion was not sufficiently widespread to ask for membership.

At the time of the Rio Conference of foreign ministers in 1942, Canada informed Brazil in confidence that it was ready to join the Pan American Union and, when this was made public by Argentina, there was favourable editorial comment in Canada. However, since Canada did not clear its intention with Washington, the Canadian Minister in the American capital was told by the Secretary of State that it would be a mistake to admit a member of the British Commonwealth at this time. Prime Minister MacKenzie King accepted the American position and even went so far as to criticize his own advisers for having gone "too far too fast".<sup>8</sup> Obviously, the United States was afraid that, if Canada were admitted, it would bring

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7. See D. ANGLIN, "United States Opposition to Canadian Membership in the Pan American Union: a Canadian View", (1961) 15 *International Organizations* 1-20, at 2. This excellent article has been used as the main source of information for this period.

8. *Id.*, at 10.

with it British influence which might interfere with its freedom of action within the organization.

The American opposition to Canada's membership began to disappear toward the end of the war and completely faded away after the war. Indeed, in April 1947, the Chairman of the Senate Foreign Relations Committee expressed the wish that Canada would come and occupy the 22nd chair and, the following month, a New York Congressman introduced a resolution in the House of Representatives asking that Canada be extended an invitation to join the Pan American Union. However, that same year seemed to mark a lowering of interest on the part of Canada, since the Canadian government declined an invitation from Argentina to subscribe to an Inter-American Declaration of Pacific Principles for the reason that it preferred to work through the United Nations. In addition, Canada decided that it was not necessary to become a Party to the *Rio Treaty*, because the Permanent Joint Board on Defense with the United States met its needs adequately. In addition, public ignorance of the Pan American Union was widespread. A poll conducted in 1947 by the Canadian Institute of Public Opinion showed that 70 % of those polled had little or no knowledge of the Inter-American System.<sup>9</sup> The lack of public interest was reflected also in the House of Commons, since the matter of Canada's membership was raised only twice during the years 1948 to 1958.<sup>10</sup> During this decade, both the Prime Minister, Louis Saint-Laurent, and the Minister of External Affairs, Lester B. Pearson, saw no advantages in joining the Pan American Union and considered that Canada's security and interests rested more with the North Atlantic Treaty Organization.

The limited interest for Latin America which developed during this period was for bilateral relations and the establishment of trade links. A number of diplomatic missions were opened during the war: Argentina and Brazil, in 1941; Chile, in 1942; Mexico and Peru, in 1944; and Cuba, in 1945. In the early fifties, diplomatic relations were established with Uruguay, Colombia and Venezuela, and in 1953, the Canadian Trade Minister, C.D. Howe, led a mission of seven businessmen to some eight countries of Latin America and the Caribbean, in an effort to establish direct trade. The period ends, therefore, with a preference for bilateral relations over the regional organization, and this, in spite of the fact that it was during the latter part of this period that the three pillars of the Inter-American System were established: the *Rio Treaty* in 1947, the *Charter of Bogota* and the *Pact of Bogota* in 1948.

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9. OGELSBY, *loc. cit.*, note 2, at 1.

10. *Id.*, at 572.

**B. 1957-1968: MODERATELY INTERESTED  
BUT STILL UNDECIDED**

This period begins with an increase in interest on the part of the newly elected Conservative government, so much so that it led a well-known Canadian political science professor to conclude in 1961 that "although no decision has yet been taken, present indications are that Canada will join OAS during the next few years".<sup>11</sup> Indeed, there were a number of such indications, in particular, by two successive Secretaries of State for External Affairs. In March 1959, when Sidney Smith returned from a trip to Latin America, he stated that "a strong case could be made for Canadian participation in OAS".<sup>12</sup> The next year, his successor Howard Green stated before the Standing Committee on External Affairs that Latin American governments found it "hard to understand why Canada is not a member".<sup>13</sup> However, Canada's interest was considerably dampened during the next few years.

In May 1961, President Kennedy made an innocent mistake when, in his speech to Parliament, he stated: "the hemisphere is a family into which we were born, and we cannot turn our backs on it in time of trouble. Nor can we stand aside from its great adventure of development."<sup>14</sup> He obviously underestimated the sensitivities of Prime Minister Diefenbaker and Secretary of State for External Affairs, Green, who interpreted his indirect plea to join the OAS as somewhat of an interference in Canada's domestic affairs. President Kennedy's invitation found favour, however, with the opposition Parties, the Liberals and the members of the New Democratic Party, as well as with a number of organizations in the country, such as the Canadian University Students Federation, the Canadian Labour Congress and the Canadian Chamber of Commerce. It also received a good response from most of the newspapers. But this favourable sentiment on the part of a good segment of the public was somewhat diminished in October 1962 by the Cuban Missile Crisis and, in 1963, when the Conservatives were defeated, nothing had been done about membership.

After the return to power of the Liberals, the question of membership was raised again and, in 1967, the Secretary of State for External Affairs, Paul Martin, stated before the Canadian Inter-American Association that "the fundamental reason for our not yet having decided to apply for membership [. . .] is our desire to be sure that, in taking on new commitments, we are in a position to meet them fully and effec-

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11. ANGLIN, *loc. cit.*, note 7, at 19.

12. Quoted by ANGLIN, *id.*, at 18.

13. Quoted from Minutes of Standing Committee on External Affairs, by ANGLIN, *id.*, at 19.

14. Quoted by J.W. HOLMES in "Canada and Pan America", (1968) 10 *Journal of Inter-American Studies and World Affairs* 173-184, at 183.

tively".<sup>15</sup> He went on to say that, for his part, he had "no doubt whatsoever that membership in the OAS is part of the ultimate destiny of Canada as a country of the Western hemisphere".<sup>16</sup> However, this was only his own personal opinion and no more that a moderate interest was shown by the government until the arrival of Pierre Elliott Trudeau as Prime Minister.

### C. 1968-1984: GREATLY INTERESTED BUT ONLY PARTIALLY DECIDED

This period of Liberal government, except for 9 months in 1979-1980, marks the height of Canada's interest in Latin American affairs in general and in the OAS in particular. Immediately, in 1968, the new Secretary of State for External Affairs, Mitchell Sharp, led a ministerial mission of five Cabinet Ministers and thirty advisers to some nine countries of Latin America during a visit of one month. Although the mission was basically a trade mission, it was broadly oriented and aimed at establishing closer relations generally. This broad orientation did not go unnoticed, and Sharp reported that the Latin Americans "were generally very pleasantly surprised to discover that, in its relations with Latin America, Canada intends to include cultural and intellectual exchanges, an area particularly close to the Latin Americans, in which the Latin American countries have much to offer".<sup>17</sup> In fact, this mission was an important first step to a comprehensive study by Canada of its overall relations with Latin America.

As admitted by Prime Minister Trudeau in 1969, Canada had "never evolved a very coherent and organic policy toward Latin America".<sup>18</sup> This is what was done in 1970 in the White Paper entitled *Foreign Policy for Canadians*. The thirty-two page pamphlet on Latin American represents the most comprehensive and clearest expression of policy toward Latin America ever published by a Canadian government. The White Paper begins by affirming that "the dominant position which the United States has hitherto occupied among outside countries interested in Latin America should be no impediment to closer Canadian involvement in that area".<sup>19</sup> The Paper summarizes the advantages of closer relations with Latin American countries as follows:

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15. "Canada and Latin America", *Speeches and Statements* No. 21, 1967, quoted by OGELSBY, *loc. cit.*, note 2, at 586.

16. *Ibid.*

17. OGELSBY, *op. cit.*, note 3, at 34.

18. Quoted by D.R. MURRAY, in "The Bilateral Road: Canada and Latin America in the 1980s", (1981-82) 37 *International Journal* 108-131, at 109.

19. Canada, *Latin America, Foreign Policy for Canadians*, 1970, 32 pages, at 6.



Closer relations with Latin American countries on a basis of mutual respect and reciprocal advantage would enhance Canadian sovereignty and independence. Greater exposure to Latin American culture would enrich Canadian life. Increased trade with Latin America and judicious Canadian investment there would augment Canada's capacity to 'pay its way' in the world. Similarly, a closer dialogue with some of these countries about world problems would enhance Canada's capacity to play an independent role in international affairs.<sup>20</sup>

After spelling out in considerable detail the opportunities available to Canada in Latin American, the White Paper addresses squarely the question of Canada joining the OAS. It addressed in particular the defence and security implications and the potential obligation to apply sanctions decided under the *Rio Treaty*.<sup>21</sup>

Three options are presented: continuing on an *ad hoc* basis as before, becoming a full member of the OAS and drawing closer to the Inter-American System and some of its agencies without actually becoming a member of the OAS. The Government decided to adopt the third option and follow the middle course. It thus applied for and was granted a permanent observer status and then named a Permanent Observer with the rank of ambassador. This decision was obviously intended to be an interim measure only, for the White Paper concludes by specifying:

This will permit Canada's relations with the countries of Latin America to develop rapidly and, by improving Canadian knowledge and understanding of those countries and their regional institutions, prepare for a better informed and more useful Canadian participation as a full member of the OAS should Canada, at some future date, opt for full participation.<sup>22</sup>

Also at the beginning of this period, a number of groups were formed such as the Canadian Association for Latin American Studies and the Canadian Association for Latin America, both of which appeared in 1969. The main purpose of the latter association was to foster contact between Canadian and Latin American businessmen. During the 1970's, the Canadian exports to Latin America rose from 500 million to about 3 billion, while Latin American exports to Canada rose from 500 million to 3.5 billion.<sup>23</sup> In addition to this moderate growth in economic relations, Canada and Latin America have succeeded in the same period to make a beginning in their attempt to diversify their international trade relations from heavy dependence on the United States. Canada intensified its trade relations with three countries in particular: Brazil, Venezuela and Mexico. This has been characterized as "concentrated bilateralism".<sup>24</sup>

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20. *Id.*, at 6-7.

21. *Id.*, at 22-23.

22. *Id.*, at 32.

23. *Canada, the United States, and Latin America*, a Conference Report, published by the Woodrow Wilson International Center for Scholars, 1 April 1984, 30 pages, at 6.

24. *Ibid.*

An exception to Canada's policy of bilateralism, intensified during this period, has been its treatment of the Caribbean region. During the short nine-month Conservative Government in 1979-1980, the Secretary of State for External Affairs, Flora MacDonald, had a review made of relations with the Commonwealth Caribbean and, after its return to power in 1980, the Trudeau Liberal Government accepted the main recommendations resulting from the review and increased development assistance to the countries of that region to 350 million over a five-year period.<sup>25</sup> Canada, of course, had a very direct interest in the Caribbean, since about 50 % of its oil imports were shipped through that area.

During this same period, Canada took advantage of its observer post to increase its number of memberships in specialized agencies of the OAS or related agencies. Canada is now a member of and participates in the following six agencies: the Pan American Health Organization (PAHO), the Inter-American Institute for Cooperation and Agriculture (IICA), the Pan American Institute of Geography and History (PAIGH), the Inter-American Statistical Institute (IASI), the Inter-American Telecommunications Conference (CITEL) and the Inter-American Development Bank (IDB).

In March 1981, the Liberal Government mandated the Standing Committee on External Affairs and National Defence to examine all aspects of Canada's relations with the countries of Latin America and the Caribbean, and asked it to report to the House of Commons by December of the same year. A Sub-Committee of fifteen (half of the full Committee) was formed and, during a period of sixteen months, it carried out a full study of Canada's relations with Latin America and the Caribbean. It visited most of the countries concerned and heard witnesses from government departments and agencies, academics, university associations, church groups, business groups and numerous other associations concerned with Latin American affairs.

In its report, the Sub-Committee recommended that "the Government give a much higher priority than it has in the past to Canada's relations with Latin American and the Caribbean".<sup>26</sup> It added that "the central objective of Canadian policy should be the promotion of stability".<sup>27</sup> The Sub-Committee believed that Canada should pursue the goal of stability through the promotion of respect for human rights, trade and investment, development assistance and security. The Sub-Committee noted that "the OAS has not, in general, been effective in promoting regional peace and security".<sup>28</sup> It also realized that "in general the Organization

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25. *Ibid.*

26. Canada, Final Report to the House of Commons, *Canada's Relations with Latin America and the Caribbean*, 1982, 169 pages, at 7.

27. *Ibid.*

28. *Id.*, at 19.

of American States is not now a particularly effective instrument for the promotion of foreign policy purposes".<sup>29</sup> However, the Sub-Committee believed that, in spite of its weaknesses, the Organization was necessary and could be improved. In this regard, it was of the opinion that Canada could make a contribution to strengthen the Organization and, thus, better attain its foreign policy objectives in the areas of human rights, trade and investment, development assistance and security. In particular, the Sub-Committee believed that becoming a full member of the OAS would enable Canada to support the resumed participation of Cuba, as well as the admission of countries such as Belize and Guyana which are presently excluded because of their territorial disputes.

The Sub-Committee concluded its report by the following emphatic conclusion and recommendation:

[ . . . ] it is time to recognize that Canada is a nation of the Americas. It is time that Canada accept the opportunities, responsibilities and risks which that entails. In the judgment of a majority of the Members of the Sub-committee, full membership in the Organization of American States should be viewed by Canada as one such set of opportunities, responsibilities and risks. Accordingly, the Sub-committee recommends that Canada seek full membership in the Organization of American States and sign the Bogota Charter.<sup>30</sup>

The Sub-Committee added, however, that "Canada not sign the Inter-American Treaty of Reciprocal Assistance until a full review of its security obligations and implications is completed by the Government".<sup>31</sup>

The Sub-Committee's recommendation on membership was adopted by a vote of seven in favour, four against and one abstention. Three members of the Sub-Committee did not vote and, presumably, were absent. The four members who voted against joined in a dissenting opinion with six members of the full Committee, explaining briefly why they had voted against the recommendation for membership.<sup>32</sup> The dissenters advanced three reasons against membership: first, the recommendation to join the OAS was based on the speculative comment about the possibility of its revival; second, a number of important Latin American States have indicated little interest in the OAS or its revival; and, third, the enhancement of Canada's presence in Latin America could be best achieved by the strengthening of bilateral ties.<sup>33</sup> Summarizing the views of the full Committee of 30 members, it appears that 10 were against Canada joining

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29. *Ibid.*

30. *Id.*, at 30.

31. *Ibid.*

32. It should be noted that one member of the Sub-Committee, Walter McLean, is shown in the Report (p. 78) as having voted in favour of membership but his name also appears among the ten members of the full Committee who subscribed to a dissenting opinion in the same Report (p. 28).

33. See Report, *op. cit.*, note 26, at 27.

the OAS and 20 were either in favour or expressed no opinion. Following this recommendation, presumably the Government had studied the security implications of Canada becoming a member, but there has been no public report on the matter.

As the end of this period, there is no indication that Canada intended to pick up its membership. Indeed, indications seem to point the other way. For instance, at a seminar in April 1983, on *Canada, the United States and Latin America*, the Assistant Deputy Minister for Latin America from the Department of External Affairs stated that "there does not appear to be a consensus in Canada on joining the Organization at this time" and even added that "many people believe that we have found exactly the balance that Canadians so dearly love".<sup>34</sup> An additional indication that Canada hesitates very much in changing its present status was given by the Secretary of State for External Affairs, in June 1983, at a seminar on Latin America, at which he reported that "within the Cabinet, we have examined the membership question with an open mind, but a decision to join the OAS would have to be based on a firm conclusion that it would have decisive advantages for our political relations with Latin American states and for the promotion of Canadian interests in the region".<sup>35</sup>

A similar indication of indecision was given by the same Minister in 1984 during a visit to Colombia when he answered a reporter that it was "not self-evident whether Canada could make a difference in the OAS or whether it would be in the interest of Canada itself".<sup>36</sup> When pressed further by a reporter, Mr. MacEachen stated that "Canada has not taken any decision on that point yet" and when being asked if the decision would be made shortly, he answered "I don't have it at the forefront of my agenda".<sup>37</sup>

This period of sixteen years of Liberal Government (except for a brief period of nine months) marks the height of Canada's interest, evidenced by its becoming a permanent observer, but ends on a note of indecision as to full membership.

#### D. 1984-1985: MODERATELY INTERESTED AND STILL ONLY PARTIALLY DECIDED

There has been no clear indication by the present Conservative Government, since its coming into power in September 1984, as to where it stands on the question of OAS membership and whether it is under

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34. *Supra*, note 23, at 15.

35. Allan J. MACEachen, *Statement*, 3 June 1983, 13 typewritten pages, at 7.

36. Voice transcription of Press Conference at Bogota, 6 April 1984, 5 pages, at 4.

37. *Id.*, at 4 and 5.

active consideration. True, the Government is presently engaged in a review process of its foreign policy but no White Paper has yet been produced. As for the Green Discussion Paper of May 1985, entitled *Competitiveness and Security: Directions for Canada's International Relations*, there is rather little on Latin America generally and only a couple of lines on OAS membership in particular. It merely states that "the debate has long been underway whether to join the Organization of American States (OAS), with strongly held arguments for and against" and asks the question "where do Canadians stand on this issue?".<sup>38</sup> These lines appear in a brief section on "Regional Conflicts", after a paragraph on Central America and the Caribbean, which asks if Canadian political and security interests are sufficient to involve ourselves more and if a more active Canadian security presence in the Caribbean would have a stabilizing influence and help diminish superpower rivalry in the region.<sup>39</sup>

Although the main purpose of the Green Paper is to prompt public discussion and does not constitute a proclamation of Government policy, the absence of any reference to the 1982 Parliamentary Report or to the main arguments for and against would seem to indicate that the matter is not under very active consideration. Indeed, the Paper gives the impression that relations with the United States are of such overwhelming and pressing importance that relations with Latin America are not at the forefront of the Government's agenda. Barring unforeseen circumstances, such as public pressure, the present Government is not likely to seek full membership during the next few years.

## II. MAIN REASONS FOR AND AGAINST CANADA'S MEMBERSHIP

Most of the reasons for and against Canada joining the OAS have been alluded to either directly or indirectly when tracing Canada's position over the years, but an attempt will now be made to single out the more important ones. A number of factors such as the financial burden for Canada, the commonality of interests with member States of the OAS and the security implications will be subsumed under other headings. The reasons against Canada's membership will be dealt with under the following headings: (1) ineffectiveness of OAS; (2) bilateralism preferable; (3) insufficient public interest; and (4) American (US) problem. The reasons in favour will be discussed under: (1) wish of OAS; (2) regionalism preferable; (3) enhancement of independence; and (4) hemispheric responsibility. There is a certain link, and sometimes a degree of correspondence,

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38. Joe CLARK, *Competitiveness and Security: Directions for Canada's International Relations*, May 1985, 43 pages, at 42.

39. *Ibid.*

between the two groups of reasons and it is hoped that this will facilitate somewhat their appraisal. Although the overall appraisal will come in the concluding remarks, comments will be offered as to the weight of those reasons as they are being discussed.

#### A. REASONS AGAINST MEMBERSHIP

##### 1) Ineffectiveness of OAS

It is said that the OAS is presently ineffective, particularly as it pertains to the maintenance of peace and security in the hemisphere, which was the main purpose of its creation, and that there is nothing to be gained for Canada to join such an organization. This criticism is, of course, basically true and the ineffectiveness of the Organization is well illustrated by the present conflict between the United States and Nicaragua. This conflict has been ongoing for some years and the greatest efforts for its settlement have been made outside the OAS, namely, at the United Nations and by the Cantadora Group. However, it is worth noticing that the OAS rejected a 1979 resolution sponsored by the United States, which would have authorized an Inter-American Peace Force in Nicaragua.<sup>40</sup> If there had not been an OAS, who is to say that the United States would not have intervened militarily more directly than it has since and with more disastrous results for the future of peace and security in the area? In addition, it has to be admitted that criticisms of ineffectiveness focus more on cases where the OAS did not take any action rather than those where it did, even with a certain degree of success.<sup>41</sup>

It should also be underlined that the maintenance of peace and security and the pacific settlement of disputes are not the only purposes of the Organization; perhaps, in the long run, the promotion of economic and social development might prove to be of even more fundamental importance. In this regard, the bulk of the resources of the Organization, for the last twenty years or so, have been directed toward development activities, particularly the following: the economic and social fields, science and transfer of technology, education and culture.<sup>42</sup> It is also a fact that, in the field of human rights, the Inter-American Commission on Human Rights (composed of seven independent and eminent jurists from member countries) has been doing excellent work in its investigation and recommendations, the proof of which is that it has been frequently criticized

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40. L.R. SCHEMAN, "The OAS and the Quest for International Cooperation: American Vision or Mirage", (1981) 13 *Case Western Reserve Journal of International Law* 83-105, at 92.

41. See a list of seventeen disputes from 1948 to 1978 and the action taken in each case in SCHEMAN, *id.*, at 90.

42. For a summary of those activities in SCHEMAN, *id.*, at 96-101.

for exceeding its mandate. And, to the Commission, has now been added an Inter-American Court on Human Rights. Admittedly, the overall image is not one of a very effective organization, but there is considerable merit in the Parliamentary Sub-Committee's view that, rather than deter Canada's membership, the ineffectiveness of the OAS should represent a challenge and opportunity to help in the reform of the Organization and in the improvement of the mechanisms for the peaceful settlement of disputes.

## 2) Bilateralism Preferable

It is said that it is more profitable for Canada to continue the bilateral route, particularly in the field of trade. At the moment, we are practising a policy of "concentrated bilateralism", with 70 to 80 % of our trade in Latin America being with three countries: Brazil, Venezuela and Mexico.<sup>43</sup> This position calls for two observations: first, being a full member should not detract from giving appropriate preference to certain countries in the field of trade; second, bilateralism, when envisaged mostly from the point of view of trade, tends to narrow the focus of contacts and neglects certain other important elements, such as cultural and intellectual exchanges. As underlined by a historian in one of the best essays on the history of Canadian/Latin American relations, "it is through cultural exchanges and involvement that nations develop an understanding of each other that facilitates contacts in other fields".<sup>44</sup> In addition, experiences outside the hemisphere, particularly in Europe, have shown that there can be definite economic advantages to being a member of a regional organization.

## 3) Insufficient Public Interest

It is a fact that public interest in Canada for Latin American affairs has never been very high, even during the period of 1968 to 1984, when Government interest was at its highest point. A survey conducted by the Department of External Affairs in 1977 showed that interest in the OAS had declined because of the disapproval of some of its decisions, in particular that of excluding Cuba from participating in its activities because of ideological differences.<sup>45</sup> The study did point out, however, that "Can-

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43. See Conference Report, *supra*, note 23, at 4.

44. OGELSBY, *op. cit.*, note 3, at 295.

45. See D.R. MURRAY, "The Bilateral Road: Canada and Latin American in the 1980s", (1981-82) 37 *International Journal* 108-131, at 111.

da's decision to obtain permanent observer status in OAS was not taken by the Government as a result of substantial public demand; nor was it acclaimed enthusiastically or denounced vigorously".<sup>46</sup> This is probably indicative that, on rather complex matters of foreign policy such as this one, the Government should not wait for public pressure before modifying an existing orientation or even taking a new one. And one might ask: is it not the function of a democratically elected government, particularly when it enjoys a substantial majority, to exercise leadership on such questions and not wait for public pressure to indicate the course to follow? On this point, and at the conclusion of a study as to whether Canada should join the OAS, our former Ambassador to Brazil and Mexico made the following appropriate comment:

As for public opinion on the issue, more than forty years' observation of public affairs in this country impels me to the conviction that if lead were given on the grounds of clearly established national interest and the challenge firmly and forcefully presented, the Canadian people would respond positively as they responded to similar challenges in the past.<sup>47</sup>

The above conviction is shared by this writer.

#### 4) American (US) Problem

Crises involving the United States, such as those of Cuba, the Dominican Republic, the Falkland Islands, Grenada and the ongoing conflict in Nicaragua, demonstrate how delicate it could be for Canada to have to decide what position it should take in similar conflicts and to live with the consequences of its decision. The argument is unquestionably one of considerable weight and needs to be examined to determine if it should be a determining factor. Indeed, a number of Canadians, most of them perhaps Government officials and politicians, are convinced that the argument is conclusive. To put it another way, many Canadians believe that we have enough trouble as it is with the United States. It is further asserted occasionally that Latin American countries wish we were members of the OAS to help them face the colossal giant to the north and that the United States want us in, not only to share in the financial burden of the Organization but, since we are perceived as being so similar to them, to help explain their position to the Latin Americans. As someone has put it, Canada would be like the innocent bird in a badminton game, knocked about back and forth between the United States and Latin America on issues which would be of little, if any, interest to it.<sup>48</sup>

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46. *Ibid.*

47. IRWIN, *loc. cit.*, note 4, at 303.

48. See WILLIAMSON, *loc. cit.*, note 6, at 12.



This argument has obviously considerable validity and calls for a number of observations. First, as one of our former permanent observers to the OAS has remarked about the comparison with the innocent bird in the badminton game, "we are not quite that innocent, we are not that stupid and we are not that powerless".<sup>49</sup> Second, the so-called American problem has not prevented Canada from participating in the United Nations and NATO, alongside the United States and with an acceptable record of independent judgment. As expressed by Ambassador Irwin, "given a reasonable degree of skill on our part and a reasonable degree of willingness on the Part of the United States to respect the independent judgments of a candid friend", the outcome of our participation in the OAS would be a favourable one.<sup>50</sup> Third, and as stated by the United States Deputy Assistant Secretary for Inter-American Affairs in a recent seminar, "our relationship is a strong one that can withstand occasional disagreements over the specifics because our basic goals and values are in accord".<sup>51</sup> Indeed, a review of the similarities and differences in the Canadian and US objectives in the Latin American and Caribbean regions has demonstrated that the similarities were considerable indeed and the differences were basically a matter of emphasis and approach.<sup>52</sup> Fourth, it is questionable that the United States would often put Canada in the delicate position of having to be an interpreter in their relations with Latin American countries. Again, to quote the same US official on Inter-American affairs, "the United States does not look to Canada as an interlocutor for the United States in dealing with other countries in the Western hemisphere".<sup>53</sup>

## B. REASONS FOR MEMBERSHIP

### 1) Wish of OAS Members

As stated by Canada's former permanent observer, "I am regularly asked in the halls of the OAS and elsewhere by genuinely puzzled people, why we are not members".<sup>54</sup> Indeed, virtually all members of the Organization at one time or other, including the United States, have expressed, the wish that Canada become a full member. Regardless of motives that could be attributed to them — and those motives are not necessarily all selfish ones — the fact is that Canada is considered to be

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49. *Ibid.*

50. IRWIN, *loc. cit.*, note 4, at 301.

51. Conference Report, *supra*, note 23, at 17.

52. *Id.*, at 9-10.

53. *Id.*, at 17.

54. WILLIAMSON, *loc. cit.*, note 6, at 9.

an integral part of the hemisphere, a dependable and stable country, and it is genuinely believed that it could make an appreciable contribution toward the improvement of the functioning of the Organization. This holds true not only for the Latin American countries whose wish go back to the early days of the Organization, but also for the Caribbean members (most of which have been associated with Canada in the Commonwealth) as well as for the United States. As stated by Ambassador William Middendorf in November 1984, after referring to the Parliamentary Sub-Committee's recommendation, "the recent change of government has brought a postponement of the final decision, but I am convinced that all member States of the OAS would be pleased to accept Canada as a full member".<sup>55</sup>

The Ambassador's view simply confirmed what the United States official had stated the previous year at the seminar that, if Canada were to decide to become a full member of the OAS, "the United States would look favourably on it".<sup>56</sup> Indeed, it would appear that a number of members of the Organization have great difficulty in understanding Canada's indecision, particularly since it has been observing on the spot since 1972, and they are beginning to show signs of impatience at our inability to come up with a definite position. Indeed, it might well be concluded that Canada finds itself comfortable enough in a half in and half out position, since it has some of the advantages of membership without having any of the disadvantages. But, it could also be that, if this situation continues, Canada's credibility as a respected Middle Power might be affected among the countries of the region.

## 2) Regionalism Preferable

There is no doubt that the trend is toward regional organizations and it has been for a number of years. For instance, it is reported that, for the decade between 1956 and 1965, 73 % of the international organizations established were regional ones.<sup>57</sup> This is not surprising when one considers the numerous common interests which normally exist among States of the same geographic region. In addition to geography, there is often an affinity of institutions, legal system, culture and language. All of these are present here to a considerable extent and, if Canada were to become a full member, these additional factors would be present to an

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55. J.W. MIDDENDORF, "Conference by the Permanent Representative of the United States to the OAS", *Nueva Frontera*, 5 Nov. 1984, at 14; translation from Spanish.

56. Conference Report, *supra*, note 23, at 19.

57. See Joseph S. NYE, *Peace in Parts*, 1971, at 4, quoted by L.R. SCHEMAN, in *Regionalism Reconsidered*, excerpt from *Governance in the Western Hemisphere*, June 1982, 36 pages, at 5.

even greater extent. Of course, regional arrangements must insert themselves in a global framework, and such is the case for the OAS which constitutes a regional organization within the United Nations system. True, the experience has shown that there is a need for a greater coordination between the mechanisms of both organizations for the peaceful settlement of disputes and the maintenance of peace and security, but this in no way diminishes the need for such a regional organization.<sup>58</sup>

It should also be mentioned that the advantages of a regional organization are as great, if not greater, for the promotion of development activities than they are for the maintenance of peace and security. As pointed out by a commentator of long experience in the management of the OAS, a regional organization can deal more effectively with localized development problems — and the European Coal and Steel Community is a case on point — since it can involve the people of the region and can use methods that are more adapted to the problems at hand and more satisfactory to the local population.<sup>59</sup> In this regard, it should be possible to broaden the scope of the American Economic Commission, so as to facilitate aid and trade for the greatest benefit of the member States. The OAS could thus provide Canada with a suitable framework for the implementation of its economic policy in the region and the intensification of trade with the member States. After all, Latin America does represent an enormous potential for Canadian exports and, after the United States, is the major location of Canadian direct investment abroad. Finally, a regional organization, by opposition to the huge United Nations, is much easier to administer simply because it is smaller.

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58. In particular, there is a need to clarify the jurisdiction of the OAS as a regional organization within the U.N. system: access to the Security Council by members of the OAS; and the right of the OAS to take enforcement action (and what constitutes "enforcement action") with the authorization of the Security Council. For a discussion of these points, see the following: E. JIMENEZ DE ARECHAGA, « La coordination des systèmes de l'ONU et de l'OEA pour le règlement pacifique des différends et la sécurité collective », *Recueil des Cours*, 1964, vol. 1, 423-526; R. St. J. MACDONALD, "The Developing Relationship between Superior and Subordinate Political Bodies at the International Level", (1964) 2 *Canadian Yearbook of International Law* 21-54; M. AKEHURST, "Enforcement Action by Regional Agencies, with Special Reference to the OAS", (1967) 42 *British Yearbook of International Law* 175-227; R. SIMMONDS, "Peace-Keeping by Regional Organizations . . ." (1975) 11-12 *University of Ghana Law Journal* 42-82; A.L. LEVIN, "The OAS and the United Nations" in B. ANDEMICAEL, *Regionalism and the United Nations*, 1979, at 147-224; M. DOMB, "Definition of Economic Aggression: the Possibility of Regional Action by the OAS", (1978) 11 *Cornell International Law Journal* 87-105; J.P. ROWLES, "The United States, the OAS, and the Dilemma of the Undesirable Regime", (1983) 13 *Georgia Journal of International and Comparative Law* 385-410; D.E. ACEVEDO, "The U.S. Measures Against Argentina Resulting from the Malvinas Conflict", (1984) 78 *American Journal of International Law* 323-344.

59. See SCHEMAN, *op. cit.*, note 57, at 15-30.

### 3) Enhancement of Independence

As stated in Canada's Foreign Policy Paper of 1970, "closer relations with Latin American countries on a basis of mutual respect and reciprocal advantage, would enhance Canadian sovereignty and independence".<sup>60</sup> Canada has had no difficulty interacting with Latin American countries in the United Nations and throughout the Law of the Sea Conference, and there is no reason to believe that they would not cooperate closely with Canada as a Middle Power in the Organization. This would inevitably result in Canada developing a leading role, not only in the Organization itself, but in world affairs generally.

Canada, being known for its pragmatic and functional approach to the solution of problems, as well as for the importance it attaches to institutional machinery, would have the opportunity to put its talent and expertise at work. As aptly put by Ambassador Williamson, "why, with this apparent predilection for a multilateral, systematic and structural approach to international affairs, we have never joined a hemispheric organization which would certainly have offered us ample opportunities for working with 'institutional machinery'".<sup>61</sup> In addition, and because of its long-standing friendly relations with the United States, Canada might well succeed in convincing its friend that ideology and the nature of a State's political system should not be a bar to membership and participation in the OAS, no more than they are in the United Nations. Experience has shown, both at the League of Nations and in the United Nations, that it is better to have 'difficult' members inside than outside, particularly when they are influential members or have the support of influential ones.

As part of its leading role and although the United States do not need Canada as an interpreter or mediator in its relations with Latin American countries, Canada would inevitably be put in the position of an honest broker and should not refuse to play that role when the situation is appropriate.

### 4) Hemispheric Responsibility

As emphasized by the Parliamentary Sub-Committee immediately before recommending Canada's membership "[...] it is time to recognize that Canada is a nation of the Americas. It is time that Canada accept the opportunities, responsibilities and risks which that entails".<sup>62</sup> It is obvious that, for Canada to realize that it does have a responsibility

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60. *Supra*, note 19, at 6.

61. *Supra*, note 6, at 16.

62. *Supra*, note 26, at 22.

in the hemisphere, it must first consider itself part of that hemisphere. This, Canada has considerable difficulty to do. Certainly, it finds it hard to perceive itself as an integral part of the Americas. Canadians do not see themselves as Americans, and this is probably at the very heart of Canada's persistent indecision. Indeed, we perceive ourselves as belonging to a North Atlantic country and, to some extent, to a Western European country, rather than an American one. In other words, we seem to have a problem of identity. We make such an effort to distinguish ourselves from Americans of the United States that we do not feel part of the Americas. However, in recent years, such a feeling is developing with the realization that Latin America and the Caribbean are subject to revolutionary change, particularly closer to home in Central America and the Caribbean, and we have begun to appreciate the potential consequences of instability in that region.

If Canada finally realizes that it is part of the Americas and that stability in the region is of direct concern to it, it will also realize that it has a responsibility in the hemisphere and it will accept it. As a country committed to the rule of law and the maintenance of peace and security in the world, the question then for Canada to answer is whether it wishes to make a greater commitment to the maintenance of peace and security in the hemisphere. If the answer is yes, as it is suggested it should be, the next question is what kind of role could Canada play toward that end.

Canada does not wish to play a major security role — certainly not in the military sense — which, in any event, it cannot do. What Canada can do is to make a contribution in promoting development activities to help overcome social and economic problems, unfair distribution of wealth and social injustice, all of which are primarily at the basis of the general unrest in the region. This approach was made quite clear by Prime Minister Trudeau in February 1983, when he spoke to the Commonwealth Heads of Government at a meeting in St. Lucia:

For its part, Canada has consistently chosen to address hemispheric tensions from their economic and social causes, being equipped neither by ambition nor by capacity to pursue military solutions or grand strategic designs. Consequently, we have urged on other partners a development approach — non-discriminatory with respect to national plans and regional institutions.<sup>63</sup>

This preferred approach was made clear also by the Secretary of State for External Affairs, MacEachen, in the same month of February 1983, during his visit to Nicaragua,

We do not believe in a military solution for Central America, moreover we do believe that any attempt to impose military solutions will decrease rather than promote stability in the area.<sup>64</sup>

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63. *Supra*, note 23, at 22.

64. *Id.*, at 15.

To put it another way, Canada's acceptance of its hemispheric responsibility would be primarily in the development rather than the military field. This brings us to the question of whether the obligation to participate in collective security measures would constitute a condition for Canada's membership in the Organization.

### III. COLLECTIVE SECURITY MEASURES AS A CONDITION OF MEMBERSHIP

It was generally believed until the late 1960's that a State joining the OAS had to become a Party not only to the *Charter of Bogota* but to the *Rio Treaty* as well. Indeed, there is a provision in the *Bogota Charter*, on the application of collective security measures, which links the Charter to the *Rio Treaty*. However, a practice has been developed within the OAS in the last twenty years which appears contrary to the traditional view and it is, therefore, necessary to examine both the treaty provisions and the practice. It is all the more necessary to make this examination, since the 1982 Report of the Parliamentary Sub-Committee recommends that Canada not become a Party to the *Rio Treaty* until it has studied the security obligations and implications.<sup>65</sup> In addition, it is relevant to determine the nature of the "security" envisaged by the *Bogota Charter* and the *Rio Treaty*, as well as the geographic extent of the security zone.

#### A. MEANING OF "SECURITY" AND EXTENT OF SECURITY ZONE

The term *security* in the basic instruments of the OAS is used in the traditional sense of military security, that is security against an armed attack, an act of aggression or any serious situation constituting a threat to peace.<sup>66</sup> This kind of security does not include — at least, not yet — economic security for the development of member States. This was made quite clear at the San Francisco Conference of 1945 when "regional arrangements" within the United Nations system were discussed.<sup>67</sup> It is also evident from the fact that the 1975 *Protocol of Amendment to the Rio Treaty* includes a new provision which provides that the Parties "recognize that, for the maintenance of peace and security in the Hemisphere, *collective economic security* for the development of the Member

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65. *Supra*, note 26, at 22.

66. See art. 8 of *Bogota Charter* and art. 3, 6, 8 and 9 of *Rio Treaty*.

67. See General Secretariat of the OAS, *Inter-American Treaty of Reciprocal Assistance, Applications*, Vol. 1 (1948-1959), at 19-20 (1973).

States of the Organization of American States must also be guaranteed through suitable mechanisms to be established in special treaty".<sup>68</sup> This Protocol has not yet been ratified by the necessary two thirds of the signatory States and the United States has refused to accept this obligation by attaching a reservation to both its signature and ratification. Consequently, the collective security envisaged is still limited to military security and does not extend to economic security.

As for the *security zone*, it is defined in the *Rio Treaty* as stretching from the South to the North Pole and embraces all of the United States (including Alaska), all of Canada (including its Arctic archipelago) and Greenland. In these circumstances, Canada has been benefitting — at least theoretically — from a protection under the *Rio Treaty* since 1947, although it was not, consulted before being included in the security zone. Presumably, the same may be said for Greenland. In 1975, the Treaty was revised and Greenland was excluded, on the criterion that the area should include only territories "under the full sovereignty of an American State".<sup>69</sup> In addition, a new outer limit of the area was drawn "on the basis of a minimum of 200 miles off the coast of the American States".<sup>70</sup> With respect to the northern limit, it ends at 86° 30' north latitude.

The new security zone still includes all of Canada, and it is reported that the United States made it clear at the time of the discussions that it wanted Canada to be included in the zone.<sup>71</sup> Since Greenland is now excluded, the eastern limit of the zone in the Arctic follows the continental shelf delimitation line between Ellesmere Island and Greenland, agreed upon by Canada and Denmark in 1973. The eastern limit of the zone then follows the 60th meridian of west longitude in its northern segment, as far as the 86° 30' north latitude. It was made clear, when the zone was re-defined, that the new definition did not reflect national boundaries. Canada, through its Permanent Observer, made a statement to the effect that "it did not accept any inferred or intended definition of territory, subject to the exercise or claim of Canadian sovereign rights or under the jurisdiction of Canada, that might be implied in the description of the security zone to be adopted".<sup>72</sup> A similar statement was also made by the United States.<sup>73</sup>

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68. Art. 11; emphasis added.

69. General Secretariat of OAS, OEA/Ser.G., CP/doc.1506/85 (Part III), 1 May 1985, at 7.

70. *Ibid.*

71. A. PICK, "Protocol Signed at San Jose Provides Reform of Rio Treaty", (1975) 26 *International Perspectives* 25-30.

72. *Id.*, at 28.

73. *Ibid.*

## B. TREATY PROVISIONS AND CONDITIONS OF ADMISSION

As to the conditions for admission to membership, the *Bogota Charter* simply states that all American States that ratify the present Charter are members of the Organization. The only requirements are, therefore, that the applicant be a State, that it qualify as being American and that it ratify the Charter. Nowhere in the Charter, which is the constitution of the Organization, is there any obligation for a member State to become a Party to the *Rio Treaty*. However, there is a provision which imposes an obligation on member States in case of an armed attack, an act of aggression that is not an armed attack or a fact or situation that might endanger the peace of America. In such instances, article 28 of the Charter provides that member States "shall apply the measures and procedures established in the special treaties on the subject". The special treaties envisaged are, of course, the *American Treaty on Pacific Settlement (Pact of Bogota)* and the *Inter-American Treaty of Reciprocal Assistance (Rio Treaty)*.

Although the *travaux préparatoires* or proceedings of the Ninth International Conference held at Bogota when the Charter was adopted are inconclusive on this point,<sup>74</sup> the part of the provision just quoted unquestionably imposes a mandatory obligation on member States to apply measures adopted pursuant to the *Rio Treaty*. These measures could be of a diplomatic, economic or military nature and would be decided upon by the Organ of Consultation, on a vote of two-thirds of the Parties to that Treaty.<sup>75</sup> There is nothing in international law which prohibits such an incorporation by reference and it is perfectly valid. What matters is that the basic treaty (here, the *Bogota Charter*) clearly incorporates provisions of the third-party treaty (here, the *Rio Treaty*), so that the juridical link is well established.<sup>76</sup>

Looking, however, at the *Rio Treaty* as a whole, there are two provisions which appear to be inconsistent with an unqualified obligation to apply collective measures. First, article 20 of the Treaty provides that decisions requiring the application of measures "shall be binding upon all the Signatory States which have ratified this treaty". Strictly speaking, this would exclude member States that have ratified only the *Bogota Charter*. Second, the *Rio Treaty* envisages the possibility of denunciation, by way of a written notice, which takes effect after the expiration of two years.<sup>77</sup>

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74. See L.R. SCHEMAN, "Admission of States to the OAS", (1964) 58 *American Journal of International Law* 963-974, at 971-2.

75. See *Rio Treaty*, art. 8 (measures) and art. 17 (vote).

76. See *Anglo-Iranian Oil Case*, (1952) I.C.J. Reports 93, at 109.

77. *Rio Treaty*, art. 25.



It follows from the above that the obligation under the *Rio Treaty*, incorporated by reference in the *Bogota Charter*, to apply collective security measures, is not free from doubt. Although the basic treaty (the *Bogota Charter*) is perfectly clear in its incorporation by reference of the obligation to apply measures decided upon under the third-party treaty (*Rio Treaty*), the latter contains an equally clear provision that such decisions shall not be binding upon those States which have not ratified the third-party treaty. With this resulting ambiguity, it is appropriate to look at "any subsequent practice in the application of the treaty".<sup>78</sup>

### C. PRACTICE AND CONDITIONS OF ADMISSION

There are now 31 member States in the OAS. The first 21 members, those that joined before 1955, ratified both the *Bogota Charter* and the *Rio Treaty*. Those 21 members are: Argentina, Bolivia, Brazil, Chile, Colombia, Costa Rica, Cuba, Dominican Republic, Ecuador, El Salvador, Guatemala, Haiti, Honduras, Mexico, Nicaragua, Panama, Paraguay, Peru, United States of America, Uruguay and Venezuela. In 1967, however, the practice began to change. In that year, Trinidad and Tobago ratified both the *Bogota Charter* and the *Rio Treaty*, but Barbados ratified the *Bogota Charter* only. Since then, eight States of the Caribbean Region have been admitted: Antigua and Barbuda (1981), the Bahamas (1982), Dominica (1979), Grenada (1975), Jamaica (1969), Saint Lucia (1979), Saint Vincent and the Grenadines (1981) and Suriname (1977). Of these eight States, only the Bahamas became Party to the *Rio Treaty*. The result is that, of the 31 member States of the OAS, 23 members are bound by the *Rio Treaty* and 8 are not.

This consistent practice, over a period of nearly twenty years, of allowing States to become members of the OAS without becoming Parties to the *Rio Treaty*, would seem to point to an agreement among member States as to the interpretation of the *Bogota Charter*.<sup>79</sup> It is this writer's opinion that such agreement may result from a practice, which is less intensive than that relating to the voluntary abstention by Permanent Members of the Security Council on a vote relating to non-procedural matters under article 27 of the United Nations Charter.<sup>80</sup> In the latter case, the provision clearly calls for an "affirmative vote" of the Permanent Members, which should normally bar the possibility of a decision when

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78. *Vienna Convention on the Law of Treaties*, art. 31, para. 3(b).

79. *Ibid.*

80. For a discussion on this point, see in particular C.A. STAVROPOULOS, "The Practice of Voluntary Abstentions . . .", (1967) 61 *American Journal of International Law* 737-752.

they abstain, whereas there is not clear obligation under the *Bogota Charter* for a member State to accede to the *Rio Treaty*. Consequently, the practice of the OAS simply confirms that there is no such obligation.

In these circumstances, Canada could conceivably become a full member of the OAS by simply acceding to the *Bogota Charter* and, as already indicated, it is very doubtful that it would have a legal obligation to apply measures for the main reason that these are only binding on States that are Parties to the *Rio Treaty*. Would it be politically wise for Canada to limit itself to becoming a Party to the *Bogota Charter* is another question and this will be addressed briefly in the conclusion.

### CONCLUSION

The purpose of this conclusion is not to summarize what precedes but rather simply to conclude on the answer to be given to the basic questions posed at the beginning of this paper: (1) Why has the Canada Chair remained unoccupied? and (2) should Canada occupy its empty chair?

#### 1) Why Has the Canada Chair Remained Unoccupied?

The answer to the question of the empty chair lies basically in the perception which Canada has of itself. Canada perceives itself as a north Atlantic country and as belonging more to Europe than to the Americas. This perception is somewhat understandable when one considers that the bulk of Canada's population has European roots, particularly in Great Britain. Indeed, Canada has inherited its parliamentary institutions and democratic form of government from Britain, and its formal Head of State is still the Queen of that country.

Although this remaining constitutional link does not diminish in any way Canada's status as a completely independent State, it is of considerable symbolic importance and cannot help but influence the perception of Canadians as to their own identity. Certainly, this is the case for English-speaking Canadians. As for French Canadians, their attachment to France is understandably much less strong for numerous historical reasons and it is not surprising that they have always shown a greater interest in establishing closer ties, especially of an intellectual and cultural nature, with Latin American countries. But this appears to remain a minority position within the Canadian population generally.

For the sake of completeness, it should perhaps be specified that the underlying psychological reason just advanced does not normally form part of the formal arguments given against Canada's membership in the OAS. As was seen earlier, the main reasons formulated are: the ineffectiveness of the organization; a preference for bilateral relations to promote

Canada's foreign policy purposes; and the fear of being put in a sandwich position between the United States and Latin American countries. It is submitted that those and other related reasons do not derogate from the conclusion that the fundamental obstacle is one of national perception and identity.

## 2) Should Canada Occupy Its Empty Chair?

The answer to the question whether to fill the empty chair is intimately related to the first question as to why it has remained unoccupied. Perhaps it is time for Canada to realize that it is part of the Americas and that Ottawa is closer to Central America than to Vancouver. Perhaps it is also time for Canada to recognize that its political and security interests are sufficient to involve itself more in Latin America and the Caribbean.<sup>81</sup>

Involvement in Latin American affairs does not necessarily imply military involvement or even support for military solutions to the problems of the area. On the contrary, Canada should continue to promote stability in the hemisphere by pressing for a development approach. It has long been clear that the basic cause of tensions in the region lies in the economic and social inequities rather than in external interventions. The unrest is much more in the nature of a North-South problem than an East-West one and it should be addressed accordingly.<sup>82</sup> Surely, it is in Canada's best interest and in line with its foreign policy purposes to help in the restoration of economic development and in the promotion of respect for human rights. These, in turn, are bound to be beneficial to Canada's long-term commercial and security interests.

It is submitted that Canada should occupy its empty chair in the OAS and also become a Party to the *Rio Treaty*. If it is not a Party to both treaties, Canada would be unable to play the effective role it should play. But whatever answer Canada gives to the question of the empty chair, it should be a clear one. Being of two minds might be acceptable for a certain number of years — even if it is rather foreign to a Latin mind — but comes a time when being of single mind is necessary to preserve one's reputation and credibility. After thirteen years, that time surely has arrived.

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81. This is the question put, in the 1985 Foreign Policy Discussion Paper, with respect to Central America. See: Foreign Policy Discussion Paper, *supra*, note 38, and the Caribbean; see *supra*, note 38, at 42, as well as M. DUPRAS, "Canada's Political and Security Interests in Latin America and the Caribbean", in the 1984 Conference Report, *supra*, note 23, at 20-25.

82. On this basic point generally, see Carlos FUENTES, *Latin America at war with the past*, CBC Massey Lectures, John Deyell Company, 1985, 75 pages.