

THE STRUCTURE OF THE ORGANIZATION OF AMERICAN STATES: A SUMMARY

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I. INTRODUCTION

The Organization of American States (“the OAS” or “the Organization”) is a “public international organization.” This means it is a legal entity established through an international treaty and that its members are State parties to that treaty.

To facilitate an understanding of the legal nature of the structure of the Organization, an analogy to the “corporation” under domestic law is helpful. Like a corporation, the Organization was conceived and created by the free will of its founders. As in the case of a corporation, which is born when the authorizing government issues the corresponding Certificate of Incorporation approving the Articles of Incorporation, the OAS is the progeny of governmental action -- the ratification of the Charter by two thirds of its signatory governments. Like a corporation, whose objectives are set out in its Articles of Incorporation, the Organization has specified goals, which are established in its founding document – the Charter of the Organization. The shareholders of the OAS are its member States.

Moreover, like a corporation under domestic law, the Organization accomplishes its purposes by way of its organs.^{2/} At the Organization, the equivalent of an annual shareholder’s meeting is the General Assembly, which establishes the Organization’s overall policies at its sessions. Within the OAS, the equivalent of the board of directors of a corporation is the Permanent Council, which is responsible for daily administrative policy and for supervising management. The Secretary General of the Organization is analogous to the chief executive office (“CEO”) or general manager of a corporation. The General Secretariat of the Organization is analogous to the permanent administrative offices of a corporation.

Finally, like a complex corporation, the Organization has a large number of subsidiary organs. Some are incorporated, with their own legal personality. Others are components of the parent institution -- some having only technical autonomy, and others which are almost completely autonomous. These subsidiary organs include the Inter-American Council for Integral Development,

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 2. OAS Charter (as most recently amended), Article 53 (Chapter VIII).

the Inter-American Court of Human Rights, the Inter-American Commission on Human Rights, the Meeting of Consultation of Ministers of Foreign Affairs, the six specialized organizations,^{3/} the specialized conferences, and the other agencies and entities established by the General Assembly to achieve the purposes of the Organization. The latter include: the Inter-American Drug Abuse Control Commission (CICAD); the Inter-American Commission Against Terrorism (CICTE); the Inter-American Telecommunication Commission; the Board of External Auditors; the Administrative Tribunal (to rule on labor disputes with the staff of the General Secretariat and the other organs); the Justice Studies Center of the Americas; the Inter-American Agency for Cooperation and Development; and the Inter-American Committees (on Ports, Science and Technology, Social Development, and Sustainable Development).

The Organization serves as a vehicle for the collective action of its member States for the development, evaluation, reform, follow-up, and accomplishment of their shared principles, standards, and objectives. Those shared principles, standards, and objectives, together with the structure and functions of the organs that make up the Organization, are set out in the Charter.

To know the Organization, one must know its Charter. The Charter is an inter-American treaty among the member States of the Organization. It reflects the past achievements of the Organization's institutional predecessors and of the inter-American system; it establishes standards, general policies, and an organizational structure for the present day; and it provides regulatory guidelines and overall objectives for the future. The first step in examining and seeking solutions to any problem that arises within the Organization is to consult the Charter. More often than not, it is the last step as well.

The Charter (like Caesar's Gaul) is divided into three parts. The first part, Articles 1 through 52, is what some people call the "dogmatic"^{4/} section. This contains the basic rules and principles of the inter-American system, including the rights and duties of the States, their obligations in the area of collective security, their common objectives and aspirations in the areas of democracy and integral development, and the Organization's relationship to the United Nations (UN) system as a regional intergovernmental organ. The second part, Articles 53 through 130, describes the multiplicity of organs within the framework called the Organization of American States, as well as their respective structure and functions. This part has been called the "organic" section. The third part, Articles 131 through 146, is known as the "protocolary" section. It includes a variety of provisions, such as the principle that no provision of the Charter may be interpreted as impairing the rights and duties of the States under the UN Charter; provisions on the privileges and immunities of the Organization and its organs, its staff, and member State representatives to the various organs of the Organization; a ban on discrimination within the Organization for reasons of race, sex, or creed; a provision encouraging cooperation with nonmember States in matters of cooperation for development; provisions governing the entry into force of the Charter; and transitory provisions.

3. The Pan American Institute of Geography and History (PAIGH), the Pan American Health Organization (PAHO), the Inter-American Indian Institute (IIC), the Inter-American Children's Institute (IACI), the Inter-American Institute for Cooperation on Agriculture (IICA), and the Inter-American Commission of Women (CIM).

4. See F. V. García Amador, Sistema Interamericano, a través de tratados, convenciones y otros documentos, Vol. I (OAS 1981), p. 69; Ismael Moreno Pino, Orígenes y Evolución del Sistema Interamericano (Mexico 1977), p. 94.

In a brief presentation such as this, it is not possible to analyze the OAS Charter in its entirety. Renowned jurists and political scientists have written entire volumes on the topic. The goal here is much more modest. After this introduction, this paper continues with a summary history of the Charter, focusing on its institutional (not political) origins and on the modifications introduced through its four protocols—changes in the Organization’s purposes (the “dogmatic”) as well as its structure (the “organic”). The next section profiles the organs of the Organization, their respective purviews, and the relationships among them. This paper concludes with some thoughts on the structure of the Organization and its relationship with the United Nations.

II. SUMMARY HISTORY OF THE CHARTER

The Ninth International Conference of American States adopted the OAS Charter in Bogotá in 1948 (“the initial Charter”). Since that time, the Charter has been modified four times -- in 1967, 1985, 1992, and 1993. The most comprehensive of those modifications, called the Protocol of Buenos Aires, was adopted in 1967 and entered into force in 1970. The subsequent modifications, in 1985, 1992, and 1993, were less extensive and dealt with more specific matters.

A. A sketch of the initial Charter

1. The Dogmatic Part

When the representatives of the 21 initial member States of the Organization met in Bogotá in 1948 to draft and adopt the Charter, the inter-American system had already developed in a fairly orderly and institutionalized fashion. There was no need to agree upon many new underlying principles for the dogmatic part of the OAS Magna Carta. A series of prior inter-American treaties and declarations, such as the Convention on the Rights and Duties of States, adopted at the Seventh International Conference of American States, and the Inter-American Treaty of Reciprocal Assistance (Rio Treaty), adopted in 1947, had already brought into force in the Americas a set of principles and objectives, together with the inter-governmental commitments to pursue them. At the outset, it was presumed that the countries would strengthen the inter-American system by establishing an Organization governed by a treaty that was more comprehensive than what had previously existed, and that, therefore, the treaty would include commitments, aspirations, and principles already established in the previous instruments. The Rio Treaty itself anticipated as much. Its Article 26 provides: “the principles and fundamental provisions of this Treaty shall be incorporated in the Organic Pact of the Inter-American System.”

Therefore, the first article of the Charter begins by confirming the achievements made up until that time by the countries within the inter-American system in the area of regional cooperation. The pertinent part of that article reads:

The American States establish by this Charter the international Organization that they have developed to achieve an order of peace and justice, to promote their solidarity, to strengthen their collaboration, and to defend their sovereignty, their territorial integrity, and their independence.

(Emphasis added). Similarly, the chapeau of Article 5 (Article 3 of the present amended Charter), on the principles of the Organization, recognizes that the Organization's essential principles had already been established within the inter-American system. It states: "The American States reaffirm the following principles". (Emphasis added).^{5/}

2. The Organic Part

The structure established in the organic part of the initial Charter similarly included certain organs and administrative concepts that had already existed in the inter-American system. In that regard, Article 32 stated that the OAS "accomplishes its purposes by means of..." the various organs, which are then summarized. The initial Charter did not specify that "new organs" were to be established. In fact, almost all the organs included in the 1948 Charter had some sort of history in the inter-American system. For example, the Pan American Union, which had served as the Permanent Secretariat of the "Union of American Republics"^{6/} since 1910, came to be known as the "central and permanent organ" of the Organization.^{7/} As for its structure and functions, the Pan American Union, as reformed by the 1948 Charter, was an institution of greater scope and *stronger* than its institutional predecessor. However, its role as permanent general secretariat remained unchanged.

The initial Charter established the Inter-American Conference as the supreme organ of the OAS. By virtue of its name, this Conference might easily be confused with the International Conferences of American States that dominated the system from 1889 to 1948; however, it was a more institutionalized organ with additional and more precisely defined functions. They included: determining the overall policies and activities of the Organization, defining the structure and functions of the other organs within the framework of the Charter, and "consider[ing] any matter relating to friendly relations among the American States." According to the principle of equality of States, each member state had one vote in this organ. However, in practice the ability of the Inter-American Conference to fulfill its functions as a supreme organ was greatly limited by the infrequency of its regular meetings under Article 35 of the Charter: once every five years.

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5. In addition to provisions on the rights of States, collective security, and the peaceful settlement of disputes (all of which were addressed in the aforementioned conventions), the dogmatic section of the initial Charter contains three short sections in which the member States undertake to cooperate in the economic and social areas. See 1948 Charter, Articles 26-31. The amended Charter contains 37 articles on these same topics. See amended Charter, Articles 30-52, 93-105, and 138.
 6. The system prior to 1948 had been known by various names. The name Union of American Republics was used in the resolution that established the Pan American Union in 1910 and in the resolution on the Pan American Union adopted at the Fourth International Conference of American States. See International Conferences of American States 1889-1928 (OAS, 1931), pp.176-179. Nevertheless, no treaty establishing the name "Union of American Republics" to refer to the inter-American system has ever been adopted. In a convention adopted at the Sixth International Conference of American States, held in Cuba in 1928, the Organization was baptized as "the Union of American States." However, for lack of ratifications, this Convention never entered into force. Id., Sixth International Conference of American States, in International Conferences of American States 1889-1928 (OAS, 1931), pp. 398-403.
 7. See id.; 1948 OAS Charter, International Conferences of American States 1942-54 (OAS, 1958), pp. 179-200.

For the daily administrative policy of the Organization and the formulation and supervision of its technical policies, the initial Charter established four councils with well-defined objectives. These were: the Council of the OAS (to deal with administrative and budgetary matters, diplomatic and general policy, and administrative supervision); the Inter-American Economic and Social Council; the Inter-American Council of Jurists; and the Inter-American Cultural Council (which also dealt with educational matters).

The Council of the OAS, in its structure and administrative role, was very similar to the Governing Board of the Pan American Union, its institutional predecessor. Both these organs were made up of permanent representatives in Washington, D.C.; both were charged with electing the secretary general and setting the quotas of the member States and both were responsible for the institution's administrative policy. In addition, under the Rio Treaty, both organs acted as provisional organ of consultation under the collective security system and had the power to convene the Meeting of Consultation of Ministers of Foreign Affairs of that system.^{8/} However, the collective security functions of the Council under the 1948 Charter are broader than those entrusted to the Governing Board of the Pan American Union under the Rio Treaty.^{9/}

In keeping with Article 26 of the Rio Treaty, the initial Charter established the Meeting of Consultation of Ministers of Foreign Affairs as the organ of consultation for the collective security system.^{10/} It assigned to that organ, however, one additional function not specifically conveyed by the Rio Treaty: "to consider problems of an urgent nature and of common interest to the American States...."^{11/}

The initial Charter recognized and incorporated into the Organization the specialized organizations and the specialized conferences. Created under multilateral agreements, the specialized organizations carry out specific functions in technical areas of common interest to the American States. In 1948 there were six, and no others have been created since that time.^{12/}

The Charter defines the specialized conferences as meetings to address special technical matters or to develop specific aspects of inter-American cooperation, to be held when convened by

8. See 1948 Charter, Arts. 39-57; Rio Treaty, Arts. 13 and 15-16.

9. The Council has the power to determine whether such a meeting should be convened and to prepare the agenda and the rules of procedure. The functions of the Governing Board of the Pan American Union were to receive the initial requests for consultations and to act as organ of liaison among the States parties and between them and the United Nations. See Rio Treaty, Articles 13 and 14; 1948 Charter, Articles 40-41.

10. Article 11 of the Rio Treaty provides: "The consultations to which this Treaty refers shall be carried out by means of the Meetings of Ministers of Foreign Affairs of the American Republics which have ratified the Treaty, or in the manner or by the organ which in the future may be agreed upon."

11. 1948 Charter, Article. 39.

12. They are the Pan American Health Organization (established in 1902); the Inter-American Children's Institute (established in 1927); the Inter-American Commission of Women (established in 1928); the Pan American Institute of Geography and History (established in 1928); the Inter-American Indian Institute (established in 1940); and the Inter-American Institute for Cooperation on Agriculture (established in 1942).

other competent organs of the Organization. Before the 1948 Charter, these specialized conferences were known as “Technical Pan American Conferences and Congresses.”^{13/}

3. Relations with the United Nations (UN)

Although the initial Charter embraced many elements of the inter-American system already in force, it also addressed new and sensitive topics of postwar life. One of those was the relationship of the Organization, as a regional organ, with a world organization such as the United Nations. Thus, Article I of the Charter identifies the Organization as “a regional agency” within the United Nations system.

The minutes of the Bogotá meeting and articles by commentators make it very clear that Article I does not signify that the OAS is a component of the United Nations.^{14/} The term “regional agency” refers specifically to Article 52 of the UN Charter, which in turn refers to the role of “regional agencies” within the UN system for the maintenance of international peace and security. That is, the OAS is one of several “regional agencies” charged with maintaining international peace and security within the system established under the UN Charter for that purpose, and the Organization and its member States must abide by the provisions of Article VIII of the UN Charter as they pertain to such organs. Nonetheless, in terms of all its other activities, the Organization is independent of the world organization.

A similar interpretation is given to Article 102 of the initial Charter (Article 131 of the amended Charter now in force), which addressed the topic of relations with the United Nations. This article provides that “none of the provisions of this Charter shall be construed as impairing the rights and obligations of the Member States under the Charter of the United Nations.”^{15/} The reason for this provision was to emphasize that the OAS, as a regional agency, is subject to the provisions of the OAS Charter in matters of collective security, but not in other areas.^{16/}

B. The Modifications

1. The Protocol of Buenos Aires

Of the four modifications to the Charter, the 1967 Protocol of Buenos Aires, which entered into force in 1970, was the most extensive and comprehensive. This amendment was motivated by

13. See, e.g., International Conferences of American States 1933-40, First Supplement, Appendix A.

14. See García Amador, *supra*, on p. 73; Charles G. Fenwick, The Organization of American States: The Inter-American Regional System (Washington, 1963), p. 553; Gordon Cornell Smith, The Inter-American System (London, 1966), p. 214.

15. This clause is compatible with Article 103 of the UN Charter, which reads: “In the event of a conflict between the obligations of the members of the United Nations under the present Charter and their obligations under any other international agreement, their obligations under the present Charter shall prevail.” See Marco Monroy Cabra, El Sistema interamericano (Costa Rica, 1993).

16. This topic is addressed later in the section on the Meeting of Consultation of Ministers of Foreign Affairs as organ of consultation under the Rio Treaty.

the need to bring the dogmatic and organic sections into line with the requirements of the Alliance for Progress, and the need to define more precisely the objectives of cooperation in the areas of social, economic, cultural, scientific, and educational development.

In the dogmatic area of the Charter, the Protocol of Buenos Aires established new Chapters VII and VIII, on “Economic Standards” and on “Social Standards,” respectively.^{17/} Those chapters contained more than 20 articles on undertakings, objectives, and aims in the areas of social, economic, educational, cultural, and scientific development. These provisions are still in the Charter and provide the legal basis for almost any activity related to the development of human society. Among them are the few provisions on social, cultural and economic development that were included in the initial Charter.

The structural reform mandated by the Protocol of Buenos Aires was profound. What emerged was a very different Organization without the Inter-American Conference, without the Council, and without two of the three inter-American councils established under the initial Charter (Jurists and Culture).

The Protocol established the General Assembly as the “supreme organ,” with a mandate to hold annual regular meetings. It went on to assign some of the key functions of the old Council, such as setting the quotas of the member States, adopting the budget, and adopting the General Standards to Govern the Operations of the General Secretariat. The Protocol also transferred from the now defunct Inter-American Conference to the General Assembly authority over general policy-making and for determining the structure and functions of the Organization.^{18/}

Under the Protocol, the Permanent Council replaced the OAS Council. Compared to the former OAS Council, the authority of the Permanent Council was more limited regarding the budget and the establishment of administrative norms for the Organization. The authority to approve the budget and adopt those norms was transferred from the old OAS Council to the General Assembly instead of to the Permanent Council. Nonetheless, the Permanent Council acquired new functions for the peaceful settlement of disputes among member States through a new organ established as a subsidiary of the Council: the Inter-American Committee on Peaceful Settlement.^{19/} The Permanent Council also acquired the responsibility and authority to “watch over the observance of the standards governing the operation of the General Secretariat and, when the General Assembly is not in session, adopt provisions of a regulatory nature that enable the General Secretariat to carry out its administrative functions.”^{20/}

17. It also introduced to the Charter certain new articles on the procedure by which an American State could become a member of the Organization. It added a new Article 8 which prohibited any “political entity” that had a border conflict with a member state prior to December 18, 1964, from joining the Organization. Subsequently, this article was rescinded by the Protocol of Cartagena de Indias, which amended the Charter in 1985.

18. 1967 Charter, Articles 52-58.

19. 1967 Charter, Articles 82-89. This Committee was eliminated with the 1985 amendment.

20. 1967 Charter, Article 91.b.

The Protocol of Buenos Aires left the Inter-American Economic and Social Council (“CIES”) in place; however, it assigned to that Council broader functions and elevated it to a ministerial-level forum.^{21/} The Protocol eliminated the Inter-American Cultural Council altogether. In its place, it created the Inter-American Council for Education, Science, and Culture (“CIECC”), a ministerial-level organ whose agenda and functions were broader, and which was charged with promoting integral development in the social and economic areas.^{22/}

The Inter-American Juridical Committee, which had served as the permanent organ of the Inter-American Council of Jurists, took the place and the functions of that Council under the amended Charter, and the number of members of the Committee was changed from nine to 11.^{23/} In addition, the Protocol created the Inter-American Commission on Human Rights as an OAS organ for the promotion and protection of human rights.^{24/}

The central and permanent organ of the Organization took on a new identity with this reform. The name was changed from “the Pan American Union” to “the General Secretariat.” The Protocol strengthened the authority of the Secretary General. Under Article 15 of the 1967 amended Charter, he is “responsible to the General Assembly for the proper fulfillment of the obligations and functions of the General Secretariat,” not to the Permanent Council. The Secretary General also received new functions and powers to facilitate the promotion of cooperation through agreements with other institutions, in keeping with guidelines established by the General Assembly or by the Councils in their areas of competence.^{25/}

2. The Protocol of Cartagena de Indias

The 1985 amendment, called the Protocol of Cartagena de Indias, entered into force in 1988. In the “dogmatic” area, it strengthened the commitment of the Organization and its member States to representative democracy. The Protocol added a clause in the preamble stating that “representative democracy is an indispensable condition for the stability, peace and development of the region.” The characterization of representative democracy as “essential” to the peace and stability of the hemisphere paved the way for the possible collective action under the Rio Treaty and application of the Charter’s provisions on collective security when representative democracy is jeopardized, provided that the action does not take the form of intervention in matters that are within “internal jurisdiction” of a member state.^{26/} It also established the legal basis for two subsequent well-known

21. 1967 Charter, Chapter XV.

22. 1967 Charter, Chapter XVI.

23. 1967 Charter, Chapter XVII.

24. 1967 Charter, Chapter XVIII.

25. 1967 Charter, Articles 115 and 118.h.

26. Article 19 provides that “no State or group of States [i.e., the Organization] has the right to intervene, directly or indirectly, for any reason whatever, in the internal or external affairs of any other State. The foregoing principle prohibits not only armed force but also any other form of interference or attempted threat against the personality of the State or against its political, economic, and cultural

General Assembly resolutions: (i) AG/RES. 1080 (XXI-O/91), which created a mechanism and a *process* by which the Permanent Council and the Meeting of Consultation of Ministers of Foreign Affairs could consider and take appropriate decisions in cases of “the sudden or irregular interruption of the democratic political institutional process or of the legitimate exercise of power by the democratically elected government in any of the Organization’s member States;” and (ii) AG/RES. 1 (XXVIII-E/01), known as the “Inter-American Democratic Charter,” which established inter-American remedies and procedures to be taken in the event of the “unconstitutional alteration of the constitutional regime of a member State” or the “unconstitutional interruption of the democratic order of a member State.”

The Protocol of Cartagena de Indias introduced new provisions into the dogmatic section of the Charter to strengthen the Organization’s commitment to representative democracy, without impairing the principle of nonintervention. In Article 2, “to promote and consolidate representative democracy, with due respect for the principle of nonintervention” was added to the list of the Organization’s “essential purposes.”

Two other clauses of this Protocol emphasized the principle of nonintervention as a check or balance to the Organization’s commitment to representative democracy. The first is a new article 3.e, which recognizes among the principles of the Organization that “every State has the right to choose, without external interference, its political, economic, and social system and to organize itself in the way best suited to it, and has the duty to abstain from intervening in the affairs of another State.”^{27/}

elements.” In addition, Article 21 provides that “the territory of a State is inviolable.” Nonetheless, Article 23 offers an exception to the principle of nonintervention when the peace and security of the region is in jeopardy. It says: “measures adopted for the maintenance of peace and security in accordance with existing treaties do not constitute a violation of the principles set forth in Articles 19 and 21.” The Protocol of Cartagena de Indias established that democracy is an indispensable condition for peace in the region. Therefore, if democracy is threatened, peace is also threatened, and the possibility of intervention arises. However, Article 1 of the Charter as amended by this Protocol prohibits intervention in “matters that are within the internal jurisdiction of the Member States.” Therefore, in the case of an intervention to preserve democracy, carried out without consensus, the intervention would have to be characterized as one that did not involve matters within the internal jurisdiction of the state concerned. On the possibilities of sustaining such a characterization, See Hugo Caminos, *The Role of the Organization of American States in the Promotion and Protection of Democratic Governance*, 1999 offprint from *Recueil des cours*, vol. 273 (1998), at p. 208, and in footnote No. 28. Dr. Caminos maintains that, in view of the application of resolution 1080, “the sudden or irregular interruption of the democratic political institutional process or of the legitimate exercise of power by the democratically elected government” are no longer considered “internal affairs” of a state and the rigid principle of nonintervention can no longer be sustained. *Id.*, p. 208. Dr. Caminos’ thesis is further supported by the recently enacted Democratic Charter, adopted by a Special General Assembly in Lima, Peru, in September 2001. Part IV of that Charter provides for the possible suspension of any Member State which has failed to rectify, upon the request of the Organization, “an unconstitutional interruption of the democratic order”

27. 1985 Charter, Article 3.e. The origin of this provision is General Assembly resolution AG/RES. 128 (III-O/73). This resolution emphasizes in its preamble “the need for the member States of the Organization to observe strictly the principles of nonintervention and self-determination of peoples” However, the resolution also provides that the declaration of principles is made “without prejudice to the standards and obligations of the Charter of the Organization, the special treaties mentioned therein” This means that the principles set forth in resolution AG/RES. 128 should be

Also, this Protocol added to Article 1 of the Charter a sentence establishing that the Organization “has no powers other than those expressly conferred upon it by this Charter, none of whose provisions authorizes it to intervene in matters that are within the internal jurisdiction of the Member States.”^{28/}

The Protocol of Cartagena also introduced the concept of “Integral Development” into the Charter. In Articles 29 and 30 of the Charter as amended by that Protocol, (now Articles 30 and 31), the member States “pledge themselves to a united effort to ensure international social justice in their relations and integral development for their peoples, as conditions essential to peace and security.” They also established that integral development should be attained “within the framework of the democratic principles and the institutions of the inter-American system.”

As for the In the organic part of the Charter, the 1985 Protocol broadened the powers of the Secretary General, giving him the authority to “bring to the attention of the General Assembly or the Permanent Council any matter which in his opinion might threaten the peace and security of the Hemisphere or the development of the Member States.”^{29/} Before the adoption of this provision, the Secretary General was legally little more than the administrator of the OAS “business.” The Protocol of Cartagena de Indias changed all that. By conferring on the office of the OAS Secretary General this new political function, it elevated the status of that office in the OAS to a level commensurate with that of the office of the UN Secretary General in the world-wide organization.^{30/}

The 1985 Protocol also introduced some changes in the powers of the Permanent Council. It eliminated the Inter-American Committee on Peaceful Settlement and assigned its dispute mediation and settlement functions directly to the Council. In addition, it eliminated restrictions imposed through the 1967 amendment by which States which had border disputes with member States were barred from joining the Organization; this opened the door for Belize and Guyana to join the OAS.

3. The Protocol of Washington

The 1992 amendment, called the Protocol of Washington, entered into force in 1997 and is known mainly for one provision (the Charter’s present Article 9), which establishes a mechanism for suspending from participation in the Organization “a Member of the Organization whose democratically constituted government has been overthrown by force.” The Protocol also cemented within the Charter the commitment of the member States and the Organization to eliminating extreme

interpreted without prejudice to the commitments to representative democracy set forth in the Charter and in inter-American treaties such as the American Convention on Human Rights.

28. However, See Hugo Caminos, supra. It would appear that, in practice, the fundamental commitment of all member States to support representative democracy has been elevated to the level of a matter of collective purview and not simply of domestic purview. See, e. g. , Democratic Charter, supra.

29. See Charter, Article 110.

30. See UN Charter, Article 99, which provides: “The Secretary-General may bring to the attention of the Security Council any matter which in his opinion may threaten the maintenance of international peace and security.”

poverty and recognized the link between eradicating extreme poverty and strengthening democracy.^{31/}

4. The Protocol of Managua

The most recent reform, in 1993, called the Protocol of Managua, entered into force in 1996 and established the Inter-American Council for Integral Development (“CIDI”) as a ministerial-level forum for promoting and channeling integral cooperation. CIDI replaced the two ministerial-level councils which had functioned under the Protocol of Buenos Aires: the Inter-American Economic and Social Council (“CIES”) and the Inter-American Council for Education, Science, and Culture (“CIECC”).

C. Different Versions of the Charters in Force

Dr. Jean Michel Arrighi has observed that there are presently several versions of the Charter in force.^{32/} This unusual situation results from the convergence of two factors. First, not all the member States of the Organization have signed and ratified all the Protocols. Second, the Charter itself provides that amendments enter into force for the ratifying States when two thirds of the State signatories to the amendments have deposited their instruments of ratification.^{33/} That is, the amendments do not enter into force with respect to those States that have not ratified them. Therefore, for example, Cuba is governed by the initial Charter of 1948 because it has not ratified any of the protocols. Dr. Arrighi calculates that there are 20 States that have ratified all the Protocols; one has signed all except the 1993 Protocol; three are governed only by the Charter as amended up until 1985 because they have not ratified the 1992 and 1993 Protocols; one is governed by the Charter as amended by the Protocol of Buenos Aires because it has not ratified the subsequent Protocols; seven are governed by the Charter as amended through 1993 except with respect to the provisions of the Protocol of Washington (1992), because those States have not ratified that Protocol. According to Dr. Arrighi, there are at least seven different combinations in force.

Up until now, this situation has not posed significant problems for the operations of the Organization. In order to avert difficulties, in 1970 the General Assembly began adopting annual resolutions that allowed those States that had not yet ratified the Protocol of Buenos Aires to

31. In Article 2, on the essential purposes of the Organization, the following was added “to eradicate extreme poverty, which constitutes an obstacle to the full democratic development of the peoples of the hemisphere.” Also added to the principles under Article 3 is that “the elimination of extreme poverty is an essential part of the promotion and consolidation of representative democracy and is the common and shared responsibility of the American States.”

32. Jean-Michel Arrighi, “El Procedimiento de Reformas a la Carta de la OEA,” Curso de Derecho Internacional XXV (OAS, 1998), pp. 77-88.

33. Article 142 provides: “Amendments to the present Charter may be adopted only at a General Assembly convened for that purpose. Amendments shall enter into force in accordance with the terms and the procedure set forth in Article 140.” For its part, Article 140 provides “The present Charter shall enter into force among the ratifying States when two thirds of the Signatory States have deposited their ratifications. It shall enter into force with respect to the remaining States in the order in which they deposit their ratifications.”

participate in the new organs established under that amendment. In 1996 it did the same to allow participation in CIDI by countries that had not ratified the Protocol of Managua. Obviously, a serious problem could arise if the member States tried to impose the suspension sanction provided in Article 9 of the Charter against a country that had not ratified the Protocol of Washington or if it were decided that countries that had not ratified the Protocol of Washington could participate in addressing, or vote on, the question of suspension under that Protocol. Happily, no such problems have arisen up to now. However, in spite of everything, this system of allowing various versions of the Charter to be in effect has a great advantage: flexibility. This way, a country that does not agree with an amendment does not have to separate itself from the Organization. It can continue to participate in regional affairs and act in keeping with the objectives and essential aims of the regional Organization, which benefits all of its members.^{34/}

III. THE ORGANS OF THE ORGANIZATION

The best explanation of the functions and authority of each of the OAS organs is contained in the Charter itself. In order to understand all the functions, powers, and responsibilities of the organs and the implications of the relationships among them, one must consult the Charter. What follows below is an outline of the OAS Organs, together with some reflections on the principal organs and their relations with each other.

A. The General Assembly

As already stated, the Protocol of Buenos Aires (1967) designated the General Assembly as the “supreme organ” of the Organization.^{35/} The establishment of a supreme organ within the OAS represents a marked difference between the structure of this regional organization and that of the UN.

The UN Charter does not identify a supreme organ. All its organs have different areas of competence. If there is a de facto supreme organ within the United Nations, it is the Security Council, but only for matters of peace and security.^{36/}

By contrast, the OAS General Assembly is truly a supreme organ. Its powers are broad and include the authority to “decide the general action and policy of the Organization, determine the structure and functions of its organs, and consider any matter relating to friendly relations among the American States.” Under this authority, the General Assembly has established a variety of organs and specialized organizations to conduct the work of the Organization, such as CICAD, CITEL, the IACD, and the Administrative Tribunal. The General Assembly has the power to approve the statutes of the Councils and of some other organs,^{37/} except those of the specialized organizations,

34. *Idem*, pp. 86-87. According to Dr. Arrighi, “uniformity in the text has been sacrificed” in order to keep the States in the Organization.”

35. OAS Charter, Article 54.

36. UN Charter, Articles 10 and 12.

37. *See*, e.g., OAS Charter, Articles 79 and 104; the American Convention on Human Rights, Articles 39 and 60.

such as IICA and PAHO, which, under their constitutional documents, have the power to determine their own internal structures.

In addition, the General Assembly, as the supreme organ of the Organization, has the authority to enact provisions to coordinate the activities of all the OAS organs among themselves and with other institutions of the inter-American system that are not parts of the OAS. All the *other* organs of the Organization have the obligation to report on their activities to the General Assembly at least once a year, so as to facilitate coordination and general policy-making.

One of the most important powers of the General Assembly is its authority to adopt the program-budget of the Organization and establish the amounts of the member States' mandatory contributions (quotas) to the Regular Fund. The Regular Fund is the principal source of funding for the activities of most of the organs. Some specialized organizations, such as PAHO, IICA, the PAIGH, and the IIL, have their own sources of regular funding, governed by their treaties or other founding documents. The other specialized organizations depend upon the General Assembly for their essential financial support.

The General Assembly's authority over the General Secretariat and the Secretary General is substantial. It elects the Secretary General and may remove him/her from office. The Secretary General reports to the General Assembly on the fulfillment of his/her mandates, on adherence to the General Standards, and on the execution of the Organization's budget. The General Assembly establishes the General Standards and the overall regulatory and budgetary framework for the operations of the General Secretariat and for the exercise of the Secretary General's authority.

The General Assembly must hold one regular session each year and can hold special sessions. Since its establishment, it has held 44 special sessions.^{38/} According to the principle of "the juridical equality of States" set out in Article 10 of the Charter, all States have the right to one vote in the General Assembly.^{39/}

Although it is the supreme organ, the General Assembly's authority is not unlimited. The last paragraph of Article 54 of the Charter provides that the General Assembly shall exercise its powers "in accordance with the provisions of the Charter and of other inter-American treaties". Also like any other organ, the scope of its authority is limited under Article 1 of the Charter. The last sentence of that Article provides that "the Organization of American States has no powers other than those expressly conferred upon it by this Charter." Lastly, in setting the financial quotas of the

38. OAS Charter, Article 57. In recent years, the Special Sessions of the General Assembly have been more frequent. The first reason is since 2006, the Organization has adopted the practice of approving its annual program budget in a Fall special session instead of its regular session. The second is that under the Inter-American Democratic Charter, a 2001 resolution adopted in a special session, assigns to special sessions of the General Assembly the critical role of adopting the appropriate measures, for restoring democracy in a country where there has been an unconstitutional alteration of the constitutional regime that seriously impairs the democratic order. Those measures include possible suspension of the member state from participation in the Organization's political bodies. See Inter-American Democratic Charter, Articles 19-22, AG/RES 01 (XXVIII E/01).

39. OAS Charter, Article 56.

member States, the General Assembly must take into account “the ability to pay of the respective countries and their determination to contribute in an equitable manner.”^{40/}

The Charter does not specify the rank of the member State representatives who make up the General Assembly. Normally, they are foreign ministers of the member States or, in their place, the ambassadors, permanent representatives to the Organization. The fact that the rank of the representatives is not specified (as it is for other OAS organs) opens up the possibility that the Presidents who participate in the Inter-American Summits of Heads of State and Government could be accommodated within the framework of the regular or special sessions of the General Assembly without modification of the Charter.

B. The Meeting of Consultation of Ministers of Foreign Affairs

As mentioned earlier, this organ originated with the Rio Treaty and was later incorporated into the Organization under the initial Charter. As its name indicates, it is made up of the foreign ministers of all the member States of the Organization. However, the ministers, if unable to attend, can send special delegates to represent them.

This organ has two functions. One very specific function is to act as organ of consultation under the Rio Treaty. That is, within the framework of the Rio Treaty, the Meeting of Consultation can be convened to consider measures in the event of an armed attack, aggression other than an armed attack, conflict outside or inside the Hemisphere, or “any other fact or situation that might endanger the peace of America”^{41/} (emphasis added). The other function is more general: “to consider problems of an urgent nature and of common interest to the American States.”^{42/}

Normally, meetings under the Rio Treaty are convened by the Permanent Council at the request of a member state, as long as the Permanent Council concludes that such a meeting is in order. However, in the case of an armed attack, the Chair of the Permanent Council can convene the Permanent Council to determine whether to convene the Meeting of Consultation, by a majority vote^{43/}. The decisions adopted by the Meeting of Consultation as organ of consultation under the Rio Treaty framework require a vote of two thirds of the signatory States which have ratified the Treaty.^{44/}

The powers of the Meeting of Consultation as organ of consultation under the Rio Treaty framework are circumscribed by Article 8 of the Rio Treaty and Article VIII of the UN Charter. That is:

40. OAS Charter, Article 55.

41. Rio Treaty, Article 6.

42. OAS Charter, Article 61.

43. Rio Treaty, Article 16.

44. Rio Treaty, Article 17.

The measures on which the Organ of Consultation may agree will comprise one or more of the following: recall of chiefs of diplomatic missions; breaking of diplomatic relations; breaking of consular relations; partial or complete interruption of economic relations or of rail, sea, air, postal, telegraphic, telephonic, and radiotelephonic or radiotelegraphic communications; and use of armed force.

If the decision is to impose a “coercive measure,” the Meeting of Consultation must obtain prior authorization from the UN Security Council.^{45/} That requirement, however, does not curtail the right of the Meeting to authorized collective armed coercive action in response to an armed attack against an OAS member state until such time as the Security Council has taken the necessary measures to preserve international peace and security.^{46/} In any case, Articles 51 and 54^{47/} of the UN Charter obligates the Meeting of Consultation to keep the Security Council informed of its decisions and activities.

C. The Permanent Council

The two Councils of the Organization—the Permanent Council and CIDI—are legally equal. Both report directly to the General Assembly and have the competence assigned to them in the Charter. Each Council is empowered to request information and advisory services from the other

45. The Charter of the UN is not totally clear on what constitutes a “coercive measure” that would require authorization from the UN Security Council. It would be difficult to sustain the argument that an armed response is not a coercive measure. On the other hand, the breaking of diplomatic relations and certain economic sanctions might not reach that level. During the Sixth Meeting of Consultation, held in San José, Costa Rica, in 1960, the decision was taken to break diplomatic relations with the Dominican Republic and impose economic sanctions against the government of General Trujillo. The majority opinion at that time was that it was not necessary to obtain authorization from the Security Council because “coercive measures” were not involved. When the Security Council was informed of the action taken, the representative of the Soviet Union prepared a draft resolution for the Council. The representatives of the three American States on the Council proposed a different draft, in which it was decided to “take note” of the action. The Security Council adopted the American draft, and established an important precedent on the American position in the sense that approval of measures of this kind was not included under the definition of “coercive measures.” See John C. Drier, The Organization of American States and the Hemisphere Crisis, (New York, 1962), p. 29. Also, within the framework of resolution AG/RES. 1080 (XXI-O/91), between 1991 and 1993 the Meeting of Consultation recommended the imposition of a series of economic and diplomatic measures against Haiti, including the breaking of economic and trade relations, to encourage the restoration of democracy in that country. In the context of Article VIII of the UN Charter, the meeting informed the Security Council and requested that a worldwide embargo be imposed, but did not request authorization for the measures it had taken. See João Clemente Baena Soares, Profile of a Mandate, Ten Years at the OAS (Washington 1974), at pp. 84-113; W. Berenson, “Joint Venture for the Restoration of Democracy in Haiti: the Organization of American States and the United Nations Experience 1991-95,” paper presented at Duke University School of Law, Center for National Security Law, on April 13, 1996 available at the Website of the Department of Legal Services of the OAS), pp. 14-20.

46. See OAS Charter, Article 51.

47. See UN Charter, Articles 51 and 54.

council and its subsidiary organs. However, because of the nature of its assigned functions and powers, the Permanent Council is the de facto “board of directors” of the Organization.

The functions that confer the role of a board of directors upon the Permanent Council are set forth in Article 91 of the Charter. The first of these is to “carry out those decisions of the General Assembly or of the Meeting of Consultation of Ministers of Foreign Affairs...”. Although this appears to be a duty, it is actually a power. The General Assembly delegates to the Permanent Council, by way of its resolutions, a large number of tasks relating to a range of OAS activities. For example, in application of the General Standards to Govern the Operations of the General Secretariat, the General Assembly has delegated to the Permanent Council the power to authorize special expenditures when the General Assembly is not in session and has allowed the Permanent Council to make substantial changes in the budget by approving transfers of resources between chapters of the Regular Fund that exceed 5%.^{48/} Also, on occasion, it has delegated the power to adopt and amend the General Standards and to put them into effect, *ad referendum* of its approval.^{49/}

Another substantial function of the Permanent Council is to supervise the work of the General Secretariat. To this end, it has the authority to “adopt provisions of a regulatory nature that enable the General Secretariat to carry out its administrative functions” when the General Assembly is not in session.

The Permanent Council also acts as the Preparatory Committee of the General Assembly, which gives it highly important functions. In performing this task, the Permanent Council prepares the draft agenda of the General Assembly and considers the draft resolution on the program budget and the member States’ quotas.^{50/} Through its Committee on Administrative and Budgetary Affairs (“CAAP”), the Permanent Council does all the work on those two draft resolutions, which are so vital to the operations of most of the organs. The CAAP also acts as the Subcommittee on Administrative and Budgetary Matters of the Preparatory Committee of the General Assembly. In addition, the Permanent Council receives the reports submitted to the General Assembly by all the other OAS organs, including the reports of CIDI, and transmits them to the supreme organ with its observations and recommendations.^{51/}

As already mentioned, the Permanent Council plays other key roles in the area of collective security and the peaceful settlement of disputes, two essential purposes of the Organization, which are spelled out in Chapters V and VI of the Charter. As for collective security, the Permanent Council convenes the Meetings of Consultation and can act as organ of consultation on a provisional basis.^{52/} In the area of the peaceful dispute settlement, the Council uses its good offices and other

48. See General Standards to Govern the Operations of the General Secretariat of the Organization of American States (General Standards), Articles 96 and 99.

49. See AG/RES. 1319 (XXV-O/95).

50. OAS Charter, Article 60.

51. OAS Charter, Article 91.f.

52. OAS Charter, Articles 83 and 62.

measures^{53/} to provide investigation, mediation, and conciliation services. Under the authority given it by these articles of the Charter, the Permanent Council has used its good offices, together with the Secretary General, to encourage solutions to a number of border conflicts, recently including conflicts between Belize and Guatemala, between Nicaragua and Honduras, and between Nicaragua and Costa Rica regarding the San Juan River.^{54/}

The Permanent Council may also play an important role in strengthening and maintaining democracy and democratic institutions in the hemisphere, as provided under the Inter-American Democratic Charter, a General Assembly Resolution adopted at a Special General Assembly on September 11, 2001,. The Inter-American Democratic Charter confers upon the Permanent Council the authority to make a collective assessment of any unconstitutional alteration of the constitutional regime that seriously impairs the democratic order in any member state, to authorize diplomatic measures aimed at rectifying that alteration. If those measures fail, the Permanent Council may convoke a Special General Assembly to consider the issues and adopt additional measures for the restoration of democracy in that member state.⁵⁵

The Permanent Council, headquartered in Washington, D.C., holds its regular meetings twice a month, and can hold special meetings when its chair considers it necessary, or at the request of the Secretary General or a member state, or by express mandate from the General Assembly.^{56/} The frequency of these meetings and their location at the General Secretariat headquarters in Washington, D.C., also contribute to the de facto preeminence of this Council vis-à-vis the other organs.

All the member States are members of the Permanent Council. Each member state has a permanent representative of ambassadorial rank accredited to the Council. Under Article 71 of the Charter and Article 10 on the equality of States, each state is entitled to one vote.

D. The Inter-American Council for Integral Development (CIDI)

The other council of the Organization, CIDI, is a ministerial-level organ. Its purpose is to promote cooperation among the member States to achieve integral development and eliminate

53. OAS Charter, Articles 84-90. Article 90 provides that in performing its functions in this area, the Permanent Council shall “observe the provisions of the Charter and the principles and standards of international law, as well as take into account the existence of treaties in force between the parties.”

54. See, e.g., CP/RES. 780 (1257/00), “Support for the process of Negotiations between the Governments of Belice and Guatemala”; CP/RES. 757 (1216/99), Support for the Governments of Honduras and Nicaragua”; CP/RES. 781 (1257/00), “Draft Guidelines for operating the Fund for Peace: Peaceful settlement of Territorial Disputes.”

55 See Inter-American Democratic Charter, Articles 17-22.

56. Rules of Procedure of the Permanent Council, Articles 36 and 37. The Permanent Council performs its work through its permanent committees, the subcommittees of the permanent committees, the special committees, and the working groups. At present, the permanent committees are the Committee on Administrative and Budgetary Affairs, the Committee on Juridical and Political Affairs, and the Committee on Hemispheric Security. See Rules of Procedure, *supra*, Chapter V.

extreme poverty in the Americas. CIDI must hold at least one regular meeting each year and can hold other meetings for specialized or sectoral topics.

CIDI is responsible for recommending to the General Assembly the approval of its Strategic Plan for Cooperation for Development, which provides the general policy framework for the Organization's cooperation activities in the area of integral development. Its other functions include: formulating guidelines for the part of the Regular Fund program-budget that has to do with technical cooperation;^{57/} and the promotion, coordination, and supervision of development programs and projects conducted by its subsidiary organs and by other affiliated organizations, subject to the priorities established in the Plan, to other General Assembly resolutions, and to its own decisions. Its programs include: (a) economic development, trade, tourism, integration, and environment; (b) education and its improvement at all levels, science and technology, and cultural activities; and (c) strengthening civic conscience as one of the bases for democracy and for the observance of the rights and duties of the human person.^{58/} According to its Statutes and the Statutes of the Special Multilateral Fund of CIDI ("FEMCIDI"), CIDI is responsible for FEMCIDI's programming, approval, and execution and for managing specific funds entrusted to FEMCIDI.

Notwithstanding its broad area of competence in the area of integral development, CIDI is subordinate to the General Assembly in the exercise of its principal powers. For example, the supreme organ must approve the Strategic Plan formulated by CIDI, as well as the establishment of its subsidiary organs and the adoption of the CIDI Statutes, and must approve the budget items assigned to CIDI under the regular OAS budget for its meetings, secretariat services, and other activities funded by the Regular Fund.

All the OAS Member States participate in CIDI through their delegations. CIDI meets in regular sessions at least once a month. It may also hold special sessions and special sectoral meetings. CIDI carries out much of its work with the help of its subsidiary organs. They include: the Inter-American Agency for Cooperation and Development ("IACD"); the nonpermanent specialized committees ("CENPES"); the inter-American Committees; Permanent Committees, and any other organs established by CIDI under the power to create subsidiary organs provided in Articles 93 and 77 of the Charter.^{59/}

Modifications to the CIDI Statute adopted by the OAS General Assembly in 2012 and 2013 eliminated what had been CIDI's most active and powerful subsidiary organ, its Permanent Executive Committee ("CEPCIDI").⁶⁰ Prior to those modifications, CIDI held its regular session only once a year, for no more than three days at a time. Most of the oversight, programming, coordination, and political functions of CIDI were in the practice developed and carried out in CEPCIDI, which met at least once a month in Washington, D.C. CIDI's role under the prior Statute, due to the infrequency of its meetings, was little more than rubber stamping CEPCIDI's decisions. The recent modifications

57. OAS Charter, Article 94; CIDI Statutes, Chapter V.

58. OAS Charter, Article 94.

59. The establishment of each subsidiary organ is subject to approval by the General Assembly, according to Article 77 of the Charter.

60. See Draft Resolution, AG/doc.5353/13; CIDI/RES. 289 (XXVI-O/13); AG/RES. 2739 (XLII-O/12).

to the Statute clearly assign CEPCIDI's functions back to CIDI, which will now operate much as CEPCIDI had in the past without the need for another level of oversight, except for those specific items requiring General Assembly approval mentioned above.

1. The IACD

The purpose of the IACD is to promote, coordinate, administer, and facilitate the planning and execution of projects under CIDI's Strategic Plan. Its functions include planning, programming projects with resources from FEMCIDI and other specific funds and other resources, and mobilizing additional resources.

The Agency performs its functions through a Management Board and a technical and administrative team also known as "the Executive Secretariat for Integral Development," a division of the General Secretariat.^{61/} CIDI elects the Management Board and exercises general supervision of the Agency.^{62/} The head of operations of the Agency is the Director General, who is also the Executive Secretary for Integral Development. The Secretary General appoints the Director General, after consulting with the Management Board, and with approval from CIDI.^{63/}

2. The Inter-American Committees

The Inter-American Committees, created by CIDI help develop, promote, and supervise, as the case may be, integral development activities in specific sectors. There are Inter-American Committees on Ports, Trade ("CIP"), Education ("CIE"), Social Development ("CIDES"), Culture ("CIC"), Tourism ("CTUR"), and Science and Technology ("COMCYT"). Some of the inter-American committees are former inter-American conferences originally established under Article 122 of the Charter, and have been transformed into inter-American committees to work more closely with CIDI in the framework of that Council.

The purpose of the inter-American committees is "to lend continuity to the sectoral dialogue on partnership for development in a given sector, follow up on the mandates issued at the ministerial level, and identify multilateral cooperation initiatives." Although CIDI has approved recommended model rules of procedure for these committees, the nature, structure, and operations of the committees vary according to the decisions of CIDI in each case.^{64/}

61. According to Article 98 of the OAS Charter, "the coordination of approved projects shall be entrusted to the Executive Secretariat for Integral Development, which shall report on the results of that execution to the Council." The approval of projects is given by CIDI, or rather by the IACD under authority delegated to it by CIDI under its Statutes. This provision is the legal basis for the designation of this Secretariat (SEDI) as Secretariat of the IACD.

62. IACD Statutes, Articles 6 and 7; CIDI Statute, Article 3(m).

63. OAS Charter, Article 117; IACD Statutes, Articles 12 and 13.

64. CIDI Statutes, Articles 12-15.

3. The CENPES

The CENPES are the only subsidiary organs of CIDI expressly mentioned in the Charter.^{65/} They are technical and support organs created by CIDI to assist with the evaluation of projects in the priority areas of the Strategic Plan for Cooperation for Development. Each CENPE is made up of no more than seven members. The members are recognized specialists in their fields, elected by CIDI, and no CENPE may have more than one specialist of a single nationality. To date, the principal function of the CENPES has been to evaluate projects financed by FEMCIDI. According to the Statutes of CIDI, however, they have a broader range of functions. The operations of the CENPES are governed by the pertinent provisions of the Rules of Procedure of CIDI and FEMCIDI and by their own Rules of Procedure, approved by CIDI.^{66/}

4. Permanent Committees

CIDI has the authority under its Statutes to create Permanent Committees to assist it in carrying out its functions. By way of its current Rules of procedure, it has established two such Committees: the Committee for Partnership for Development Policies and the Committee on Program-Budget and Evaluation.⁶⁷

5. Other Organs

To date, CIDI has not created, either under its own initiative or as directed by the General Assembly, any other subsidiary Organs. Nonetheless, under the New Statutes, the General Assembly designated the already existing Special Committee on Trade (CEC) as a special Committee operating within CIDI's framework.⁶⁸

E. The General Secretariat and the Secretary General

1. The General Secretariat

The General Secretariat provides administrative supports to most of the other OAS organs. There are few organs that do not receive professional and Secretariat services and Regular Fund budget appropriations through the General Secretariat. The exceptions include certain specialized organizations, such as IICA, the PAIGH, PAHO, and the IIL. The Inter-American Court of Human Rights receives its budget appropriation through the General Secretariat but its staff is not made up of General Secretariat staff members and the execution of its budget is not handled by the Secretariat.

65. OAS Charter, Article 97.

66. CIDI Statutes, Articles 8-11; FEMCIDI Statutes, Article 21; Rules of Procedure of the CENPES, Articles 1-17.

67. CIDI Statute, Article 16.

68. CIDI Statute, Article 17.

All other OAS organs are served by the Secretariat, which the Charter defines as the “central and permanent organ” of the Organization.

The specific functions of the General Secretariat are defined in Articles 107, 111, and 112 of the Charter and include: execution of the functions and mandates assigned to it by the Charter by other inter-American treaties and agreements, and by resolutions of the General Assembly, the Meeting of Consultation, and the councils; promoting economic, social, legal, educational, scientific, and cultural relations; transmitting notices of meetings of the General Assembly, the Meeting of Consultation, the councils, and the specialized conferences; technical advice to the other organs; preparing the proposed program-budget of the Organization; secretariat services to the meetings of other organs; safeguarding the documents of the OAS organs and serving as depository for inter-American treaties and agreements; and establishing cooperative relations in keeping with the general standards established by the General Assembly or the councils.

The General Secretariat is governed by the General Standards adopted by the General Assembly. These Standards detail the functions of the General Secretariat and of the Secretary General, provide guidelines on the rights, duties, and recruitment of its staff, and contain regulations to govern the preparation, execution, and supervision of the program-budget and regulations on audits and on conflicts of interest.^{69/}

2. The Secretary General

The Secretary General is the “general manager or “chief of executive officer” (“CEO”) of the General Secretariat. He/she is elected by the General Assembly for a term of five years and reports directly to the supreme organ on the fulfillment of his/her functions.^{70/} The Charter gives the Secretary General the authority to determine the structure of the General Secretariat, to determine the number of staff members, to appoint them, to set their salaries, and to establish rules to govern their authorities and duties, all of which must be in keeping with the General Standards and with the budgetary provisions adopted by the General Assembly. Under this authority, the Secretary General has issued a series of executive orders establishing the structure and functions of the dependencies of the General Secretariat,^{71/} Staff Rules, and a number of regulatory provisions on the formulation and execution of the budget.^{72/}

69. The first General Standards were adopted by the General Assembly in 1971, through resolution AG/RES. 123 (III-O/73). Modifications have been frequent to respond to needs for greater transparency in budgetary matters, tighter internal controls, and changes in personnel and salary policy. Rarely a year passes by in which no amendments are submitted to the General Assembly for approval.

70. OAS Charter, Articles 107 and 109. He may be reelected only once.

71. The Secretariat includes six subsidiary secretariats: The Secretariat for Integral Development (“SEDI”); the Secretariat for Legal Affairs, which includes the the Secretariat of the Inter-American Juridical Committee; the Secretariat for Administration and Finance, the Secretariat for Political Affairs, the Secretariat for External Relations (including the Art Museum of the Americas), and the Secretariat for Multidimensional Security (includes secretariats for CICAD (drugs)and CICTE (terrorism)) . Each subsidiary secretariat has various specialized departments with well-defined functions and structure. In addition there are various specialized offices, and other dependencies that

One of the most important functions of the Secretary General is to serve as legal representative of the Secretariat. That is, the Secretary General has the authority to obligate the Secretariat legally by signing agreements and contracts in the area of competence assigned to that office by the Charter and following guidelines established by the General Assembly. The Secretary General is not empowered by the Charter to represent the Organization overall and cannot legally obligate the Organization. Only the General Assembly can represent and obligate the Organization. Occasionally, by resolution, the General Assembly has expressly delegated this function to the Permanent Council or to the Secretary General.

The Secretary General's political authority under the 1985 Protocol of Cartagena de las Indias to "bring to the attention of the General Assembly or the Permanent Council any matter which in his opinion might threaten the peace and security of the Hemisphere or the development of the Member States" has already been discussed above. Since the entry into force of the Protocol, the Secretary General, this official has used that authority broadly.^{73/}

report directly to the Office of the Secretary General. They include a collection of dependencies known as "Autonomous and Decentralized" – the secretariats for the Inter-American Human Rights Commission ("IACHR"), the Inter-American Children's Institute ("IIN"), the Inter-American Commission of Women ("CIM"), the Inspector General, and the Inter-American Telecommunications Commission ("CITEL"). There are also several operating units within the Offices of the Secretary General and of the Assistant Secretary General. As for the Office of the Secretary General, they include the Office of the Chief of Staff, the Department of Legal Services, the Protocol Office, and the Summit Secretariat. Within the Office of the Assistant Secretary General ("ASG") are the Office of Chief of Staff of the ASG, the Columbus Memorial Library, the Department of Conferences and Meetings Management (including translations and meeting services), the Office for Coordinating the Offices and Units in the Member States outside Headquarters, including the secretariats of those offices, and the Office to the Secretariat of the General Assembly, Meetings of Consultation, Permanent Council. Secretariat services for the Board of External Auditors are provided by SAF. The Inter-American Court of Human Rights has its own secretariat in Costa Rica, although its Secretary (CEO) is appointed by the Secretary General, upon consultation with the members of the Court. The Secretariats of the Specialized Agencies, other than those of CIM and the IIN, are autonomous and not part of the General Secretariat. See the Organization Chart for the General Secretariat, http://www.oas.org/legal/english/organization_charts.htm.

72. Article 12 of the General Standards recognizes the power of the Secretary General "to issue and apply the administrative provisions necessary for the proper functioning of the General Secretariat." See, e.g., Executive Orders Nos. 96-2, "Modifications to the Staff Rules", 00-2, "Modification of Staff Rules", 08-03 "Modifications of Staff Rules," 05-04 corr. 1 "Performance Contract Rules," and 00-1, "Procurement Contract Rules." Executive Order No. 81-5, "Internal Regulatory Instruments of the General Secretariat: Executive Orders, Directives of the Secretary General, and Administrative Memoranda," establishes three types of instruments: executive orders, directives of the Secretary General, and administrative memoranda, which are ranked in that order.
73. The cases are too numerous to be summarized here. Noteworthy examples are the role of former Secretary General Baena Soares in Nicaragua during the second half of the 80s in encouraging the cease-fire and the 1989 elections; and the actions of the Secretary General in application of resolution AG/RES. 1080 in Haiti (1991 to present); Guatemala (1992); Paraguay (1996); Peru (1992 and 2000); and Ecuador (2000).

The Charter establishes the Office of the Assistant Secretary General, and this official is also elected by the General Assembly for a term of five years. The functions of the Assistant Secretary General under the Charter are quite specific. He serves as Secretary of the Permanent Council and advisor to the Secretary General. He replaces the Secretary General in the event of his temporary absence or incapacity. The scope of his other functions and powers depends on the discretion of the Secretary General. The Charter provides that the Assistant Secretary General shall act as the Secretary General's delegate "in all matters that the Secretary General may entrust to him."^{74/}

The establishment of the post of Assistant Secretary General in the Charter, an official elected by the General Assembly rather than being appointed by the Secretary General, introduces the possibility of institutional rivalry between the two posts.^{75/} The Assistant Secretary General owes his appointment not to the Secretary General but to the member States that elect him.^{76/} In this way, if problems arise in their relationship, the Secretary General can limit the scope of authority of the Assistant Secretary General by not delegating functions and powers to him. Nonetheless, the Secretary General cannot impede the fulfillment of the Assistant Secretary General's constitutional function, which is to act as Secretary of the Permanent Council.^{77/}

F. The Inter-American Juridical Committee

The Inter-American Juridical Committee ("IJC") has authority for specific functions in the legal area. First, it serves as an advisory organ of the Organization on legal matters. Second, it promotes the progressive development and codification of international law, both private and public. Third, it studies legal problems relating to integration among countries and the possibility of their adopting joint and uniform legislation. Fourth, it has the authority to develop and establish cooperative relations with other public and private organs. The IJC must remain prepared to answer consultations and prepare studies as instructed by the General Assembly, the Meeting of Consultation of Ministers of Foreign Affairs, and the councils. It may also carry out studies on its own initiative.^{78/}

74. OAS Charter, Articles 114 and 115. The present Secretary General has delegated a broad range of functions to the Assistant Secretary General. See Executive Order No. 97-2.

75. The Charter of the United Nations does not provide for any office similar to this one.

76. Since 1984, as a result of the early resignation of Alejandro Orfila as Secretary General, the elections of these two officials have been held in different years. This means that the institutional system does not encourage the two to undertake mutual commitments in order to be elected under a single "slogan" supporting the same platforms and policies.

77. Perhaps, in a subsequent round of amendments to the Charter, the member States might consider eliminating the post of Assistant Secretary General, because the institutional possibility of conflict between this post and that of the Secretary General *could undermine* the efficiency of General Secretariat administration. In this case, the amendment *should* allow the Secretary General to appoint his own assistant or assistants, as happens in the UN with the Assistant Secretaries, and happens at IICA and the majority of other international organizations.

78. OAS Charter, Articles 99-103.

The functions performed by the IJC and its institutional predecessors are among those of longest standing in the Organization. They date back to the beginning of the last century.^{79/}

The Committee is composed of eleven members elected for a term of four years by the General Assembly, in their personal capacity, as outstanding jurists of the region. The Committee is headquartered in Rio de Janeiro, and it is served there by staff members of the Secretariat for Legal Affairs of the General Secretariat. According to its Statutes, adopted by the General Assembly, the Committee holds meetings twice a year. Most of its funding comes from the Regular Fund. Although the Committee enjoys technical autonomy in the performance of its functions, it depends upon the General Assembly for its funding and on the Secretary General for secretariat services.

The IJC is not the only organ that provides advisory services to the organs of the Organization. Daily advisory services are provided by two dependencies of the General Secretariat: the Secretariat for Legal Affairs and the Department of Legal Services of the Office of the Secretary General, according to their respective areas of competence.^{80/} In addition, the permanent Committee on Juridical and Political Affairs carries out studies on some legal topics also addressed by the IJC and pursues some of the same objectives.

G. The Inter-American Commission on Human Rights

The Charter barely mentions the Inter-American Commission on Human Rights (“IACHR”) and merely States that there shall be a Commission, whose “principal function shall be to promote the observance and protection of human rights and to serve as a consultative organ of the Organization in these matters.” Details regarding the structure and other functions of the Commission are to be found in the American Convention on Human Rights (“the Convention”), which is mentioned in Article 106 of the Charter, the Statute, and the Rules of Procedure of the Commission.^{81/}

According to the Convention, the IACHR’s functions include: developing an awareness of human rights; preparing studies and reports on the subject; requesting member States to supply information on human rights matters and making specific recommendations for the adoption of measures in favor of human rights that may further observance of those rights in the member States; and responding to inquiries made by the member States on matters related to human rights and submitting an annual report to the General Assembly⁸². The IACHR also investigates and attempts to resolve petitions by individuals against States Parties to the Convention in accordance with the procedure established in that instrument, submits cases to the Inter-American Court of Human Rights^{83/} and must be present during all cases before the Court.

79. See Charles G. Fenwick, The Organization of American States: The Inter-American Regional System (Washington, 1963), pp. 279-293.

80. See Executive Order No. 96-4.

81. The Convention was adopted in San José, Costa Rica, in 1969, and entered into force on July 11, 1978. As of March 7, 2001, 25 member States of the OAS had ratified the instrument and, of them, 22 had accepted the jurisdiction of the Inter-American Court of Human Rights. CP/CAJP-1659/99rev. 5.

82. Convention Article 41.

83. Convention Articles 43-51.

The IACHR is composed of seven members elected in an individual capacity by the General Assembly; each of them to serve for a period of four years. Its headquarters is in Washington, D.C.^{84/}

Although the Commission enjoys technical autonomy in the exercise of its functions, it depends on the General Assembly for most of its financing, which comes from the Regular Fund and the General Secretariat to cover the cost of its professional staff and secretarial support. Moreover, the Commission is governed by its own Statute, adopted by the General Assembly, and by its Rules of Procedure, adopted by the Commission itself.^{85/}

In recent years, the IACHR has requested greater independence from the General Secretariat, a goal that the Secretary General has endeavored to support^{86/}. Total independence of the Commission vis-à-vis the General Secretariat, however, can only be attained via amendments to the Convention that would allow the Commission to have its own staff that are not part of the General Secretariat and by generating alternative sources of financing to replace dependence on the Regular Fund to cover Commission activities.

H. The Inter-American Court of Human Rights

The Charter makes no express mention of the Inter-American Court of Human Rights (“the Court”). Within the organizational structure of the institution it is among the several unnamed other “entities and agencies” established pursuant to the last paragraph of Article 53 of the Charter. That paragraph states: “There may be established, in addition to those provided for in the Charter and in accordance with the provisions thereof, such subsidiary organs, agencies, and other entities as are considered necessary.” The Court forms part of the Organization’s mechanisms for the protection of human rights.

The Court was established in the American Convention on Human Rights. It has a jurisdictional and a consultative function. Only the Commission and the States Parties to the Convention that have recognized the jurisdiction of the Court may submit to it a case relating to the interpretation or application of the Convention. The Court consists of seven judges elected in an individual capacity by the General Assembly for a term of six years^{87/}. The Court sits in San José, Costa Rica⁸⁸. It is governed by its Statute, adopted by the General Assembly, and by its own Rules of Procedure adopted by the Court, without the need for ratification by the highest organ.

The Convention concedes to the Court greater independence than it does to the IACHR. The Court appoints its own Secretary and although the Secretary General appoints the other members of

84. IACHR Statute Article 15; IACHR, Rules of Procedure, Articles 15 and 16.

85. Convention, Articles 39, 40.

86. See Directive D-01/00 00 “Administration of the Secretariat of the Inter-American Human Rights Commission.”

87. Convention, Articles 52 –54.

88. Statute of the Court, Article 3.

its staff, they do not have to be staff members of the General Secretariat, and in, fact they are not. The Convention requires the Court to abide by the general standards and practices and other norms of the General Secretariat only insofar as they are not incompatible with the independence of the Court. Based on that provision, since 1998 the Court has developed and applied its own practices and internal standards with regard to staff and financial administration pursuant to an agreement reached with the General Secretariat on administrative aspects of the Court.^{89/}

I. The Specialized Conferences

The Specialized Conferences are intergovernmental meetings convened to deal with special technical matters. In general, the Conferences are sponsored by or closely related to another organ of the Organization, such as a Specialized Organization or one of the Councils. The Conferences convene when either the General Assembly or the Meeting of Consultation of Ministers of Foreign Affairs so decides, at the initiative of a prior session of the subject Conference itself, or at the request of the Specialized Organ or Council authorized under the Rules of Procedure of the Conference to convene such a meeting^{90/}. The Conferences are governed by the “Standards for Inter-American Specialized Conferences” adopted by the General Assembly in resolution AG/RES. 85 (II-O/72), and their own Rules of Procedure, adopted by the Council or Specialized Organization sponsoring them. To assist the Specialized Conferences in the preparation of rules of procedure, the Permanent Council issued Model Rules of Procedure in 1972^{91/}. The rules for the Conferences require the General Secretariat to provide administrative and secretariat support, except when the organ sponsoring the Conference is a Specialized Organization with its own staff, such as IICA or PAHO.

Today, Specialized Conferences generally play a less important role within the Organization than in prior years. Many of them have turned into sectoral ministerial meetings within the framework of CIDI, supported by an inter-American committee of CIDI, as in the case of the Science and Technology Conference. The Specialized Conferences on Labor and Travel are currently contemplating becoming ministerial meetings of CIDI with the support of an inter-American committee for each of the two areas. The Statistical and Highways Conferences no longer exist^{92/}. The Agricultural Conference was eliminated and its functions taken over by the Inter-American Board of Agriculture of IICA^{93/}. The Telecommunications Conference turned into the Inter-American Telecommunication Commission (CITEL), a more complex and more active organization, with a permanent secretariat^{94/}. At the present time, only the Inter-American Specialized Conference

89. See the "Agreement between the General Secretariat of the OAS and the Inter-American Court of Human Rights on the Administrative Functioning of the Secretariat of the Court," signed on November 12, 1997 (CP/INF.4172/98).

90. OAS Charter, Articles 122, 123.

91. CP/RES. 76 (84/72), “Model Rules of Procedure for Inter-American Specialized Conferences.”

92. Resolution AG/RES. 1574 (XXVIII-O/98).

93. Resolution AG/RES. 1728 (XX-O/00).

94. Resolution AG/RES. 1224 (XXIII-O/93).

on Private International Law (“CIDIP”) seems unlikely to turn into another kind of organ in the near future.

J. The Specialized Organizations

The Specialized Organizations are intergovernmental organizations established by multilateral agreements and having specific functions with respect to technical matters of common interest to the American States. The General Assembly determines whether an entity constitutes a Specialized Organization. The Secretary General must maintain a register of such organizations.

Today, there are six Specialized Organizations: The Pan American Health Organization (PAHO), established in 1902; the Inter-American Children’s Institute (IACI), established in 1927; the Pan American Institute of Geography and History (PAIGH), established in 1928; the Inter-American Commission of Women (CIM), established in 1928; the Inter-American Indian Institute (IIN), established in 1940, and the Inter-American Institute for Cooperation on Agriculture, established in 1942^{95/}.

The requirement that a Specialized Organization be established by a multilateral agreement has been interpreted somewhat broadly. Only three such organizations – PAHO, IICA, and the IIN, were established by inter-American treaties. The other three – PAIGH, the CIM, and IIN – were created by “agreements” reached by the participants at Inter-American Specialized Conferences.

As might be expected, the Specialized Organizations established by means of a treaty, generally enjoy greater independence from the General Assembly and the Secretary General than the others. They do not receive resources from the Regular Fund; they have their own staff; they do not depend on the General Secretariat for administrative support; each one has its own governing organs; they have headquarters of their own outside Washington, D.C. Moreover, the General Assembly is constitutionally prohibited under the last paragraph of Article 54 of the Charter from modifying the structure of those Specialized Organizations created by means of a treaty or taking any other action to the extent it would be incompatible with the provisions of the corresponding inter-American treaty under which any one of those Organizations was created.

By contrast, the CIM and IIN rely on the Regular Fund for the bulk of their financing, and hence, they depend on the General Assembly. Their secretariat and administration services are provided by the General Secretariat and the installations they occupy belong to the General Secretariat. Because the CIM and IIN depend on the General Assembly for their operating budget and on the General Secretariat for secretariat and administrative services, they are more subject to control by the General Assembly and the Secretary General and are therefore less independent than the other Specialized Organizations and more frequently identified with the Organization.

The exception is PAIGH. Although it was not established by an inter-American treaty it is relatively independent from the General Assembly because it has its own regular funding, its own staff, and its own headquarters in Mexico.

95. Until 1979 it was known as the Inter-American Institute of Agricultural Sciences.

The Charter stipulates that relations between the Specialized Organizations shall be defined by means of agreements concluded between each organization and the General Secretariat. To that end, in 1972, through Resolution AG/RES. 87 (III-O/72), the General Assembly adopted standards for the implementation and coordination of the provisions of the Charter relating to the inter-American Specialized Organizations^{96/}.

The Specialized Organizations are authorized to establish cooperative relations with UN agencies working in the same fields and with other entities pursuing similar objectives. They must, however, preserve their identity and their status as integral parts of the OAS in accordance with Article 129 of the Charter. This mandate is particularly relevant in the case of PAHO, which also acts as the regional organ of the U.N. World Health Organization.

K. Other Agencies and Entities

The Charter does not have a chapter on Other Agencies and Entities. These entities are mentioned only in the last paragraph of Article 53, which lists the organs in the Organization. Normally, these agencies and entities are created by the General Assembly, by means of a resolution and based on its power to “determine the structure and functions of its organs” and approve the establishment of the subsidiary organs of the councils^{97/}. One exception to the general rule is the Inter-American Court of Human Rights. As already mentioned above, it was established by an inter-American convention. Normally, the General Assembly adopts the Statutes of these other entities and agencies, defines their specific objectives, structure, members, sources of financing, and their relations with the General Secretariat in respect of staff and other services.

In this presentation, it is not possible to list all the entities and agencies. Some of the best known are: CICAD, which promotes the Organization’s fight against the illicit use of and traffic in narcotic drugs^{98/}; CITELE which is devoted to the development, extension, and the strengthening of telecommunication services and networks^{99/}; the Board of Auditors, which examines the accounts of the Regular Fund, FEMCIDI, and the specific funds managed by all the organs (except those of IICA, the PAIGH, PAHO, and III) and makes recommendations to improve the handling of them^{100/}; the Administrative Tribunal, which resolves disputes between the General Secretariat members of its staff^{101/}; CICTE, an Inter-American Committee created to formulate, monitor, and coordinate

96. See, for instance, the Agreement between IICA and the OAS, signed on April 16, 1974 and the Agreement between the OAS and PAIGH, signed on May 6, 1974.

97. OAS Charter, Articles 54 and 77.

98. AG/RES. 813 (XVI-O/86).

99. AG/RES. 1224 (XXIII-O/903).

100. AG/RES. 148 (IV-O/74); CP/RES. 124 (164/75), rev.1. corr.3; General Standards supra at Chapter VIII, Articles 118-126.

101. AG/RES. 35 (I-O/71); AG/RES. 1318 (XXV-O/95); AG/RES. 1526 (XXVII-O/97). Since 1971, the Tribunal has handled 140 judgments. All of them are available on its website.

hemispheric, anti-terrorism measures; and the Justice Studies Center, the purpose of which is to facilitate the modernization and reform of justice systems in the Americas through training programs and exchanges of information^{102/}.

The IADB, which also contains the highly regarded Inter-American Defense College in Washington, D.C., is another OAS entity. It was established in 1942 as an institution within the inter-American system. When the modern OAS was created in 1948 and for almost sixty years, the status of the Inter-American Defense Board within the inter-American system was in limbo and a subject of debate within the OAS. Some claimed it was a *de facto* entity under Article 53 of the Charter. Others claimed that although it was part of the larger Inter-American system, it was not part of the OAS.¹⁰³ In 2006, a special meeting of the General Assembly resolved the issue by recognizing the IADB as an OAS entity and adopting a new Statute for its operations.¹⁰⁴ The Board reports to the OAS General Assembly and the Hemispheric Security Committee of the Permanent Council provides oversight of its operations.

Many believe that the Inter-American Development Bank (“IDB”) is an OAS institution. They are mistaken. Legally speaking, the IDB cannot be a member of the Organization because it is no longer a purely inter-American organization. Since the signing of the Declaration of Madrid in 1974, the Bank’s membership has included countries from other parts of the world. Today, 18 of its 46 member States are non-American^{105/}. Nevertheless, it is important to point out that the IDB did arise out the OAS framework in 1959^{106/} partly as a result of studies conducted by the Pan American Union at the behest of what used to be the Inter-American Economic and Social Council^{107/}.

102. See the Statutes of the Justice Study Center of the Americas, AG/RES. (XXVI-E/99).

¹⁰³ The relation of the IADB to the Organization was a topic of debate at the Ninth International Conference of American States in 1948, which gave birth to the modern OAS. Then and thereafter, the Mexican Government insisted that the intention of the countries establishing the IADB was to create a temporary organ that would shortly thereafter be replaced by a permanent defense institution, with different functions and a different structure. Thus, Mexico maintained that it was never the intent of the original member States to make the Board a part of the Organization, and that lack of such intent was demonstrated by the absence of any express mention of the Board in the Charter^{103/}. (The fact that the Council of the Organization decided not to designate the IADB a Specialized Organization in 1950 tends to support the Mexican view. See, M. Margaret Ball, *The OAS in Transition* (Durham 1969), p. 380-388.) Many countries disagreed with this view and the Secretariat for Legal Affairs even issued an opinion in 1981, in which it argued that the IADB fulfills all the conditions required of an OAS entity established pursuant to Article 53 of the Charter. See "Situation of the Inter-American Defense Board vis-à-vis the Organization of American States," in the 1979 Inter-American Juridical Yearbook (OAS 1979), at pp. 315- 328.) The Secretariat based its opinion on the very close relationship between the Organization and the IADB, their twin birth in 1948, the fact that the regular budget of the IADB was part of the budget of the Organization that the General Assembly adopted every year since 1948, and the fact that the IADB has occupied General Secretariat facilities without paying rent since 1952.

¹⁰⁴ See AG/RES. 1 (XXXII-E/06).

105. "About the IADB," [www.iadb](http://www.iadb.org) (March 19, 2001).

106. See the Charter of the Inter-American Development Bank (open to signature in the Pan-American Union on April 8, 1959), Washington 1959.

IV. FINAL REMARKS

The following observations contain general remarks on the internal structure of the OAS and a few reflections on the relation between this regional organ and the global organization, the United Nations.

A. Remarks on the Organizational Structure

The configuration of the Organization under the Charter has its advantages and disadvantages. One of its advantages is the diversity of the organs. There are organs with the powers and competence to pursue almost any goals within the broad panoply of mandates contained in the dogmatic part of the Charter. This diversity of organs greatly enhances the Organization's ability to accommodate the various mandates arising out of the Summits of Heads of State and Government of the Americas and other political fora.

The main disadvantage of this structure is its high degree of centralization. Thus, the decisions taken in the councils and subsidiary technical and political organs regarding their structure, policy, and budget generally require the blessing of the General Assembly. In recent years, some organs have eluded the paralysis generated by the political bureaucracy by incorporating special provisions in their statutes or by adopting measures "*ad referendum*" of the higher authorities. Nonetheless, the uncertainty and lack of immediate finality associated with measures adopted "*ad referendum*" may impose constraints on their execution to the detriment of the benefits sought. Furthermore, the hierarchy of organs within the political bureaucracy established by the Charter and the resolutions of the General Assembly make decision-making a slow and repetitive process. The process is costly for an organization with scant resources, as well as slow with respect to the adoption of final decisions. While occasionally a proposal put forward by a subsidiary organ is approved by one of the councils and possibly adopted by the General Assembly without much discussion, unfortunately that is not always the case. The process requires fulfillment of a number of both horizontal and vertical procedures between one organ and another, all within the hierarchy established in the Charter and reflected in the statutes duly adopted by the General Assembly.

Only the Specialized Organizations with their own organic structure, established in the treaties that gave rise to them, such as PAHO and IICA, are spared the adverse effects of this centralization. Nevertheless, IICA did experience similar problems with its own internal political bureaucracy, created by its Convention and reflected in the provisions adopted by its primary governing organ, the Inter-American Board of Agriculture (IABA). During the 1990s, IICA realized that a centralized political bureaucracy requiring repetitive revisions at different levels – often by the same people in different capacities – wastes valuable resources. Thus, on its Director General's initiative, IICA amended its organizational structure to allow numerous final administrative policy decisions to be delegated to the level immediately below the Director, that is to say, its Executive Committee, which is equivalent to the OAS Permanent Council.^{108/} A similar initiative within the

107. M. Ball, *supra*, pp. 388-93.

108. See resolution IICA/JIA Res. 341 (X-O/99), The New Institutional Dimension; "Concept Paper. The Need for Structural Reform of IICA and its Organs in Light of Structural Changes in the Inter-

Organization of American States would probably enhance its political and administrative efficiency and would be a welcome change.

B. Relations with the United Nations

As noted above, Article 1 of the Charter identifies the OAS as a regional agency within the United Nations. We have also explained that this refers exclusively to the function of the OAS as a regional agency in the context of Article VIII of the United Nations Charter, that is to say, to its duty to maintain peace and security as a regional agency in the Americas.

In the performance of this duty, and only in that respect, there exists a relationship of subordination vis-à-vis the world organization. As a regional agency the OAS has to keep the Security Council informed of its activities related to peacekeeping and international security; under the UN Charter, the Security Council has no reciprocal duty at all vis-à-vis the OAS. Furthermore, the OAS may not adopt coercive measures without the authorization of the Security Council.

In practice, however, these duties are not particularly burdensome. The exchange of information between two intergovernmental organizations with concurrent jurisdictions, as is the case with regard to peace and security in the region is necessary and makes good sense. Moreover, practice has shown that the definition of what may be construed as a coercive measure proposed by the OAS and requiring authorization from the Security Council is very narrow and does not extend to trade embargoes or the severance of diplomatic relations.

In all other areas of concurrent or joint jurisdiction, such as integral development, legal development, efforts to combat the illicit use of and trafficking in narcotic drugs, and human rights, the two organizations are legally equal. There is no relation of subordination. That was very clearly demonstrated during the Joint OAS/UN International Civilian Mission in Haiti, from 1993 to 2000, in which each Organization's efforts complemented those of the other, on an equal footing.

That experience showed that a "joint venture," which is what that mission amounted to, is not only possible; it also puts the comparative advantages of both actors to good use. The mission benefited from UN planning, resources, and experience. It also benefited from the OAS's flexibility and adaptability, qualities that were indispensable for the success of the mission's efforts in its early phases¹⁰⁹.

During his term as Secretary General of the OAS, Joao Clemente Baena Soares always insisted on the two organizations being considered equal and that pressure from a higher Organization on the other would impair the chances of true and effective cooperation¹¹⁰. He noted that:

American System." Report of the Eighteenth Regular Meeting of the Executive Committee (San José, 1998).

109. W. Berenson, "Joint Venture for the Restoration of Democracy in Haiti", supra, quotation in H. Caminos, supra, at pp. 211-12.

110. While Baena Soares was Secretary General, the OAS reached a general agreement with the UN on General Cooperation. The two organizations continue to work together in several technical fields, and in sustainable development and environment. Every year, the Secretary General has to report to the

Cooperation between OAS and the United Nations cannot be based on principles of hierarchy, for neither is dependent on nor subordinate to the other. Nor must it be established on the basis of specialization, as both organizations are general in nature. To the contrary, it must recognize as its basis the community of purposes and principles between the two and the diversity of their competence.... Collaboration between OAS and the United Nations is a relationship of mutual support and benefit between organizations... It is the diversity of their competence that makes that cooperation possible.¹¹¹

The policy on relations between the two organizations that Secretary General Baena Soares stated and pursued during his time in office was both legally valid and politically prudent. It remains so today.

General Assembly on progress made in the area of cooperation with the world organization. See, for instance, AG/RES> 1710 (XXX-O/00).

111. Quoted in "The Organization of American States and Multilateralism in the Americas," in V. Vaky and H. Muñoz, The Future of the Organization of American States (New York) 1993).