The present book is devoted to a topic of the utmost importance in times of (perceived) new threats to international peace and security and, one may add, in times of the existence of a single super-power: is the UN Charter system of individual and collective security, the basic structure of which was devised 60 years ago and reflects the balance of power existing in the direct aftermath of the 2nd world war, is this system apt to meet actual and future challenges? The collection of essays deals in depth with issues such as recent Security Council practice (by N. Blokker); the actual content of and possible exceptions to the prohibition on the use of force contained in Art. 2 IV UN Charter (by N. Schrijver); Kosovo, East Timor and Iraq (by P. van Walsum); whether the system is moving towards new circumstances under which the Security Council may authorize the use of force (by M. Wood); the use of force in peace-keeping operations (by R. Zacklin); the Security Council and self-defence (by J. Brunnée); and attribution within the field of use of force (by A. Nollkaemper). Light is shed also on the relationship between the US and the Security Council (D. S. Mathias), as well as on relationships between the Security Council and other entities, such as NATO (by M. Zwanenburg) or the Peace and Security Council of the African Union (by J. Levitt). Finally, four chapters are devoted to the reform of the Security Council, each approaching the topic under a different angle (M. E. O’Connell; N. Blokker; K. van Kesteren; J.-P. Cot).

Not only does this collection contain a balanced melange of contributors from either an academic or practitioner’s background; but the list of contributors contains some of the most highly reputed names, and the essays will in turn confirm this reputation as they all stand up to the great expectations raised. In a review on a collection of essays not all contributions may be discussed in depth. The contributions by Wood and Zacklin, however, need to be mentioned at least in passing: they are excellent and rare in that they focus on what the law actually is and what States or International Organisations actually do (Wood once devotes a half page to a footnote on state practice and government views, p. 76, footnote 4). Worth mentioning also is Mathias’ piece because his chapter on the relationship between the US and the Security Council has a different format. The relationship is analyzed rather in a historical and political perspective, and legal positions and arguments therefore play a more indirect role.

Turning now to the chapters receiveing an in depth discussion, the four articles surrounding the Security Council reform lend themselves to a closer look as they allow for a synopsis of the different pieces. So does the topic of ‘attribution’ within the field of use of force, more precisely the question of whether or not terrorist
attacks need to be attributable to a State in order to allow the State victim of such a terrorist attack to react in self-defence. Until 9/11, this debate had played an almost marginal role. Israel and the US had on several occasions invoked a right of self-defence when taking forcible action in response to previous terrorist strikes. However, at that time the majority view among States was clear: such terrorist attacks would not trigger the right of self-defence. 9/11 blurred this clear-cut dividing line, and the debate has gained immense importance. Consequently, the chapter on “Attribution of Forcible Acts to States” will be discussed briefly, as well as the one on “The Security Council and Self-Defence” insofar as the latter deals with the issue of attribution.

Brunnée takes a liberal viewpoint and challenges the applicability of the state responsibility principles of attribution within the field of self-defence against terrorist attacks (p. 123) on the ground that those principles envisage solely non-forceful counter-measures. In her eyes, the appropriate framework to classify state conduct supporting terrorism is that of self-defence. This approach is different from the ones taken by the ICJ in the Nicaragua and the Oil Platforms case, or the ICTY in the Tadic case; it provokes a reevaluation of ‘traditional’ concepts of attribution, the law of state responsibility and possible interactions with the law on the use of force, especially self-defence. One of the main difficulties with such a modern approach, not based on attribution, is that a ‘non-responsible’ State (at least its territory) will be exposed to self-defence actions by another State. Unfortunately this crucial point is not covered in great depth.

Nollkaemper in his chapter, which is completely devoted to this question, is of the opposing view and finds that the principles of attribution taken from the law of state responsibility indeed are relevant to a determination of the legality of self-defence against terrorist attacks; attempts to disconnect the state responsibility principles on attribution and the law on the use of force in his opinion generally are undesirable and based on weak legal authority (139) – a point which Brunnée does not counter. Nollkaemper convincingly analyzes the relationship between the state responsibility principles of attribution and the law on the use of force in the light of various aspects, as for instance their different ‘rank’ due to Art. 103 UN Charter (155–6), and their similar functions, i.e. to respond to and terminate international wrongful acts (149). He makes clear that different fields of law may have different rules of attribution (151) (e.g. Full Powers in the law of treaties). Nevertheless, in his view, linking the law on self-defence with the rules on attribution from the law of state responsibility is less a transposition of concepts from one field to another, than an orientation to that field of law in which the concept of what an act of a state in general is has been developed.

As one could expect, the four chapters on the Security Council reform each follow a different approach: O’Connell argues in favour of a reform strengthening the rule of law in the decision-taking process of the Security Council relating to