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2015

Annual Review of United Nations Affairs, 2013-2014



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Annual Review of United Nations Affairs

2013/2014

VOLUME I

Edited by
Joachim Müller
and
Karl P. Sauvant

OXFORD
UNIVERSITY PRESS

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With offices in
Argentina Austria Brazil Chile Czech Republic France Greece
Guatemala Hungary Italy Japan Poland Portugal Singapore
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Published in the United States of America by
Oxford University Press
198 Madison Avenue, New York, NY 10016

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Cataloging-in-Publication information is available from the Library of Congress.

ISSN 0066-4340

ISBN: 978-0-19-024634-1 (2013/2014, Set)

ISBN 978-0-19-024627-3 (2013/2014, Volume I)

Printed in the United States of America on acid-free paper

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SUMMARY TABLE OF CONTENTS

VOLUME I

Preface to the *Annual Review of United Nations Affairs 2013/2014* by Joachim Müller
and Karl P. Sauvant

Contributors and Co-editors

Calendar of Conferences and Meetings of the United Nations, September 17, 2013
to September 15, 2014

List of Abbreviations

CHAPTER 1: General Assembly, Sixty-eighth Session

VOLUME II

CHAPTER 1: General Assembly, Sixty-eighth Session (*Continued*)

VOLUME III

CHAPTER 1: General Assembly, Sixty-eighth Session (*Continued*)

CHAPTER 2: Security Council

VOLUME IV

CHAPTER 2: Security Council (*Continued*)

VOLUME V

CHAPTER 2: Security Council (*Continued*)

CHAPTER 3: Economic and Social Council

VOLUME VI

CHAPTER 4: International Court of Justice and International Criminal Tribunals

CHAPTER 5: Secretariat: Annual Reports

INDEX

TABLE OF CONTENTS VOLUME I

Preface to the <i>Annual Review of United Nations Affairs 2013/2014</i> by Joachim Müller and Karl P. Sauvant	xi
Contributors and Co-editors.	xvii
Calendar of Conferences and Meetings of the United Nations, September 17, 2013 to September 15, 2014	xix
List of Abbreviations	xxxix

CHAPTER 1

General Assembly Sixty-eighth Session

A. Commentary by Professor John R. Mathiason: The General Assembly— Planning the World's Future	3
B. Regular Documentation	
1. Statement to the General Assembly by Mr. John William Ashe, President of the General Assembly, following the opening of the sixty-eighth session, A/68/PV.1, September 17, 2013, pp. 1–3	23
2. Statement to the General Assembly by Mr. John William Ashe, President of the General Assembly, on the closing of the sixty-eighth session, A/68/PV.109, September 15, 2014, pp. 9–12	27
3. Agenda of the sixty-eighth session of the General Assembly, A/68/251, September 20, 2013, and Add.1, 7 November 2013, Add.2, 7 March 2014, Add.3, 14 April 2014, and Add.4, 7 July 2014	31
C. Selected Documentation	
1. Summary by the President of the General Assembly of the sixth High-level Dialogue on Financing for Development, 7 and 8 October 2013, New York, A/68/627, November 29, 2013	45
2. Report of the Open Working Group of the General Assembly on Sustainable Development Goals, A/68/970, August 12, 2014	67
D. Resolutions Adopted by the General Assembly at Its Sixty-eighth Session	
68/1. Review of the implementation of General Assembly resolution 61/16 on the strengthening of the Economic and Social Council	89
68/2. Extension of the intergovernmental process of the General Assembly on strengthening and enhancing the effective functioning of the human rights treaty body system	95

68/3. Outcome document of the high-level meeting of the General Assembly on the realization of the Millennium Development Goals and other internationally agreed development goals for persons with disabilities: the way forward, a disability-inclusive development agenda towards 2015 and beyond	96
68/4. Declaration of the High-level Dialogue on International Migration and Development	100
68/5. Scale of assessments for the apportionment of the expenses of the United Nations: requests under Article 19 of the Charter	104
68/6. Outcome document of the special event to follow up efforts made towards achieving the Millennium Development Goals.	105
68/7. Permanent memorial to and remembrance of the victims of slavery and the transatlantic slave trade	109
68/8. Necessity of ending the economic, commercial and financial embargo imposed by the United States of America against Cuba.	111
68/9. Building a peaceful and better world through sport and the Olympic ideal	112
68/10. Report of the International Atomic Energy Agency	116
68/11. The situation in Afghanistan	117
68/12. Committee on the Exercise of the Inalienable Rights of the Palestinian People	137
68/13. Division for Palestinian Rights of the Secretariat	139
68/14. Special information programme on the question of Palestine of the Department of Public Information of the Secretariat	141
68/15. Peaceful settlement of the question of Palestine	142
68/16. Jerusalem	149
68/17. The Syrian Golan	151
68/18. Graduation of countries from the least developed country category.	152
68/19 A. Financial reports and audited financial statements, and reports of the Board of Auditors	153
68/19 B. Financial reports and audited financial statements, and reports of the Board of Auditors	156
68/20. Programme planning	157
68/21. Report on the activities of the Office of Internal Oversight Services	158
68/22. Credentials of representatives to the sixty-eighth session of the General Assembly	160
68/23. Objective information on military matters, including transparency of military expenditures.	161

68/24. Implementation of the Declaration of the Indian Ocean as a Zone of Peace	164
68/25. African Nuclear-Weapon-Free Zone Treaty	165
68/26. Consolidation of the regime established by the Treaty for the Prohibition of Nuclear Weapons in Latin America and the Caribbean (Treaty of Tlatelolco)	167
68/27. Establishment of a nuclear-weapon-free zone in the region of the Middle East'	169
68/28. Conclusion of effective international arrangements to assure non-nuclear-weapon States against the use or threat of use of nuclear weapons	171
68/29. Prevention of an arms race in outer space	174
68/30. Implementation of the Convention on the Prohibition of the Use, Stockpiling, Production and Transfer of Anti-personnel Mines and on Their Destruction.	177
68/31. The Arms Trade Treaty	179
68/32. Follow-up to the 2013 high-level meeting of the General Assembly on nuclear disarmament	179
68/33. Women, disarmament, non-proliferation and arms control	181
68/34. Assistance to States for curbing the illicit traffic in small arms and light weapons and collecting them	183
68/35. Follow-up to nuclear disarmament obligations agreed to at the 1995, 2000 and 2010 Review Conferences of the Parties to the Treaty on the Non-Proliferation of Nuclear Weapons	185
68/36. Observance of environmental norms in the drafting and implementation of agreements on disarmament and arms control	187
68/37. Relationship between disarmament and development	189
68/38. Promotion of multilateralism in the area of disarmament and non-proliferation	190
68/39. Towards a nuclear-weapon-free world: accelerating the implementation of nuclear disarmament commitments	193
68/40. Reducing nuclear danger	197
68/41. Measures to prevent terrorists from acquiring weapons of mass destruction	199
68/42. Follow-up to the advisory opinion of the International Court of Justice on the legality of the threat or use of nuclear weapons	201
68/43. Transparency in armaments	203

68/44. National legislation on transfer of arms, military equipment and dual-use goods and technology	206
68/45. Implementation of the Convention on the Prohibition of the Development, Production, Stockpiling and Use of Chemical Weapons and on Their Destruction.	207
68/46. Taking forward multilateral nuclear disarmament negotiations	211
68/47. Nuclear disarmament	214
68/48. The illicit trade in small arms and light weapons in all its aspects.	219
68/49. Treaty on the South-East Asia Nuclear-Weapon-Free Zone (Bangkok Treaty)	223
68/50. Transparency and confidence-building measures in outer space activities	225
68/51. United action towards the total elimination of nuclear weapons.	227
68/52. Problems arising from the accumulation of conventional ammunition stockpiles in surplus	231
68/53. Prohibition of the dumping of radioactive wastes	234
68/54. Regional disarmament	236
68/55. Confidence-building measures in the regional and subregional context.	237
68/56. Conventional arms control at the regional and subregional levels	239
68/57. United Nations regional centres for peace and disarmament.	240
68/58. Convention on the Prohibition of the Use of Nuclear Weapons	241
68/59. United Nations Regional Centre for Peace and Disarmament in Asia and the Pacific	243
68/60. United Nations Regional Centre for Peace, Disarmament and Development in Latin America and the Caribbean	244
68/61. United Nations Regional Centre for Peace and Disarmament in Africa	247
68/62. Regional confidence-building measures: activities of the United Nations Standing Advisory Committee on Security Questions in Central Africa	249
68/63. Report of the Disarmament Commission.	254
68/64. Report of the Conference on Disarmament.	255
68/65. The risk of nuclear proliferation in the Middle East	257
68/66. Convention on Prohibitions or Restrictions on the Use of Certain Conventional Weapons Which May Be Deemed to Be Excessively Injurious or to Have Indiscriminate Effects	259
68/67. Strengthening of security and cooperation in the Mediterranean region.	262

68/68. Comprehensive Nuclear-Test-Ban Treaty	264
68/69. Convention on the Prohibition of the Development, Production and Stockpiling of Bacteriological (Biological) and Toxin Weapons and on Their Destruction	266
68/70. Oceans and the law of the sea	269
68/71. Sustainable fisheries, including through the 1995 Agreement for the Implementation of the Provisions of the United Nations Convention on the Law of the Sea of 10 December 1982 relating to the Conservation and Management of Straddling Fish Stocks and Highly Migratory Fish Stocks, and related instruments	315
68/72. Assistance in mine action.	345
68/73. Effects of atomic radiation	349
68/74. Recommendations on national legislation relevant to the peaceful exploration and use of outer space.	351
68/75. International cooperation in the peaceful uses of outer space	354
68/76. Assistance to Palestine refugees	359
68/77. Persons displaced as a result of the June 1967 and subsequent hostilities.	361
68/78. Operations of the United Nations Relief and Works Agency for Palestine Refugees in the Near East	362
68/79. Palestine refugees' properties and their revenues	367
68/80. Work of the Special Committee to Investigate Israeli Practices Affecting the Human Rights of the Palestinian People and Other Arabs of the Occupied Territories	369
68/81. Applicability of the Geneva Convention relative to the Protection of Civilian Persons in Time of War, of 12 August 1949, to the Occupied Palestinian Territory, including East Jerusalem, and the other occupied Arab territories	372
68/82. Israeli settlements in the Occupied Palestinian Territory, including East Jerusalem, and the occupied Syrian Golan	374
68/83. Israeli practices affecting the human rights of the Palestinian people in the Occupied Palestinian Territory, including East Jerusalem	377
68/84. The occupied Syrian Golan.	382
68/85. Comprehensive review of special political missions.	383
68/86. Questions relating to information	385
68/87. Information from Non-Self-Governing Territories transmitted under Article 73 <i>e</i> of the Charter of the United Nations	400

68/88. Economic and other activities which affect the interests of the peoples of the Non-Self-Governing Territories	401
68/89. Implementation of the Declaration on the Granting of Independence to Colonial Countries and Peoples by the specialized agencies and the international institutions associated with the United Nations	404
68/90. Offers by Member States of study and training facilities for inhabitants of Non-Self-Governing Territories.	408
68/91. Question of Western Sahara	409
68/92. Question of New Caledonia	411
68/93. Question of French Polynesia	415
68/94. Question of Tokelau	417
68/95. Questions of American Samoa, Anguilla, Bermuda, the British Virgin Islands, the Cayman Islands, Guam, Montserrat, Pitcairn, Saint Helena, the Turks and Caicos Islands and the United States Virgin Islands	419
68/96. Dissemination of information on decolonization.	436
68/97. Implementation of the Declaration on the Granting of Independence to Colonial Countries and Peoples.	438
68/98. Global health and foreign policy	441
68/99. Strengthening of international cooperation and coordination of efforts to study, mitigate and minimize the consequences of the Chernobyl disaster.	446
68/100. Assistance to the Palestinian people.	451
68/101. Safety and security of humanitarian personnel and protection of United Nations personnel	455
68/102. Strengthening of the coordination of emergency humanitarian assistance of the United Nations	463
68/103. International cooperation on humanitarian assistance in the field of natural disasters, from relief to development	472
68/104. Responsibility of States for internationally wrongful acts	480
68/105. Criminal accountability of United Nations officials and experts on mission	481
68/106. Report of the United Nations Commission on International Trade Law on the work of its forty-sixth session	486
68/107. Revision of the Guide to Enactment of the Model Law on Cross-Border Insolvency and part four of the Legislative Guide on Insolvency Law of the United Nations Commission on International Trade Law.	491

68/108. United Nations Commission on International Trade Law Guide on the Implementation of a Security Rights Registry.	493
68/109. United Nations Commission on International Trade Law Rules on Transparency in Treaty-based Investor-State Arbitration and Arbitration Rules (as revised in 2010, with new article 1, paragraph 4, as adopted in 2013)	494
68/110. United Nations Programme of Assistance in the Teaching, Study, Dissemination and Wider Appreciation of International Law	496
68/111. Reservations to treaties	500

Preface

The Annual Review of United Nations Affairs 2013/2014

by

Joachim Müller and Karl P. Sauvant¹

The *Annual Review of United Nations (ARUNA)* occupies a special place in the publications on the work of the United Nations—it provides readers with in-depth commentaries on the principal developments by a group of distinguished experts,² complemented by selected and official United Nations documentation. This is done for the key organs of the Organization: the General Assembly, the Security Council, the Economic and Social Council (ECOSOC), the International Court of Justice, and the United Nations Secretariat.³ The period reviewed for the 2013/2014 edition of *ARUNA* coincides with the 68th annual session of the General Assembly from September 17, 2013, to September 15, 2014. As one of the longest established annual publications on United Nations affairs, *ARUNA* provides an important reference source for policy-makers, academic researchers, and anyone interested in this Organization.

2013/2014 in review

In accordance with its comprehensive mandate, the United Nations is concerned with peace and security, development, social affairs, and human rights. The Organization has developed into a complex and global institution with a well-established governance structure involving essentially all countries, namely 193 member states. A large part of the Organization's work can be considered routine United Nations business, including negotiating and elaborating treaty obligations, maintaining peacekeeping missions, implementing development projects, and providing for refugees. Each year, however, there are a number of issues that characterize the period under review.

The conflict in Ukraine became—and has remained—a main concern that has created divisions that have implications beyond the region. Twenty-five years after the collapse of the Berlin Wall, Ukraine reminded the international community that we are still wrestling with the ghosts of the Cold War. The response to the crisis has seen a close cooperation between the United Nations and the Organization for Security and Co-operation in Europe (OSCE), as foreseen under Chapter 9 of the United Nations Charter. This operational model, namely collaboration with regional organisations to address regional challenges, is expected to expand in the case of Ukraine to supporting elections, mediation, and national dialogues; assisting rule of law and security sector reform; advising judicial and constitutional reform processes; and designing economic and trade policies.

Other security matters included the threat of terrorism, the emergence of the Islamic State in Iraq and the Levant, the threat of foreign fighters, and the radicalization of youth. The

¹ The views expressed here do not necessarily reflect those of the institutions with which the authors are affiliated.

² Details on the experts are shown below, under *Contributors and Co-editors*.

³ Due to its inactive nature, the Trusteeship Council is not included.

impact of the transition in Afghanistan on Central Asia was a leading concern. New concepts are required to address the new challenges. The United Nations has announced a major review of the peacebuilding architecture and peacekeeping operations that will be led by Nobel Laureate and former leader of Timor-Leste, José Ramos-Horta.

With regard to development, the United Nations strove throughout the year for a more sustainable and equitable path. Member states were at a critical juncture in 2013/2014 on the post-2015 sustainable development framework. Building on the Millennium Development Goals, the new framework, is expected to be even broader in scope. One of the proposed goals includes a specific focus on peaceful societies, human rights, and inclusive, accountable governance as crucial to sustainable development—as well as tackling social and economic exclusion and environmental degradation.

Many challenges cut across security and development concerns and require the ability of nations and organisations to act together. More often than not, these challenges transcend borders. The United Nations had to address the massive displacement of populations through disaster and conflict. This included civil conflicts, coupled with terrorism, organized crime, illegal drug-trafficking, and health crises such as Ebola, which are threatening millions of people.

Despite the daunting tasks that the United Nations faces, Secretary-General Ban Ki-moon arrived at a positive conclusion at the end of the 2013/2014 review period when he stated: “By working together, we can be the first generation to end extreme poverty and the last generation to live with climate change as an existential threat.”⁴

Commentaries by chapter

The commentaries that accompany the documentation contained in each chapter provide an overview of the workings of the Organization, highlighting important issues and providing an introduction to the documents that follow in each chapter.

Chapter 1 covers the 68th session of the General Assembly. John R. Mathiason provides the Commentary—“Planning the world’s future.” The regular documentation includes the opening and closing statements of the President of the session, and the agenda of the annual session. This is followed by two selected documents of particular importance for the work of the General Assembly during the year in review. Finally, the complete set of the Assembly’s resolutions is provided. Mathiason notes that the Assembly continued the slow work of obtaining consensus on the items on its agenda, including adjustments to new developments. For the longer term, it succeeded, through its plenary and committee events, and especially through the Open-ended Working Group, in making significant progress in agreeing on the sustainability goals and targets to be achieved by 2030 to address the most important problems facing the world. It achieved, and even exceeded, the objective of the General Assembly’s President to focus on setting the stage for an agreement on the post-2015 goals. Arguably, not only did the seventeen goals that were proposed constitute a draft vision for the future, but the Assembly really began a planning process to achieve these

⁴ United Nations Secretary-General Ban Ki-moon, Address to the Permanent Council of the Organization for Security and Co-operation in Europe, PC.DEL/1281/14, Vienna, November 4, 2014.

goals by identifying 169 targets to be met. This means that it should be possible to elaborate a detailed agreed-upon plan for achieving the sustainable development goals. While many of these are still subject to debate, the session put in place an increasingly detailed set of proposals for how the world should look in the future and how to get there—and this will shape the discussions of the next General Assemblies.

Chapter 2 deals with the work of the Security Council. Jacques Fomerand provides the Commentary—“Searching for a consensus and coping with new threats, laboriously.” The regular documentation contains the Report of the Security Council, which gives a detailed account of the various issues discussed, the documentation considered, and the decisions taken by the Security Council during the year under review. This is followed by 13 selected documents of particular importance for the work of the Security Council during the year in review. Finally, the complete set of Security Council resolutions and the Presidential Statements is provided. Fomerand starts out by recalling the annual retreat of the Security Council, the Secretary-General, and senior staff of the United Nations Secretariat, who met on April 21–22, 2014. On that occasion, they engaged in a collective brainstorming exercise on such topical issues as the management of crises in failed or fragile new states, the transitional functions of United Nations missions, and ways and means for the United Nations to respond to popular protests against democratically elected leaders. Optimists view such meetings as an indication of the Council’s determination to reflect on, and come to grips with, key issues of peace and security. Fomerand takes a more critical view, which is skeptical that any significant changes will emerge from these annual conclaves. He reminds us that the Council is first and foremost a political body endowed with immense powers that it can use depending upon the converging interests of the member states—most particularly the five permanent members (“the P5”)—and their relative levels of political will. Consistency, inclusiveness, and transparency are not always the distinguishing attributes of the Council. This being said, it does not follow that the Council is either an impotent mirror of the world’s political divisions or an overreaching Leviathan. Fomerand argues that as a sovereign state-driven institution, the Council cannot be, and should not be, expected to be impartial and detached from politics, nor to be fully democratic. The Council, in other words, is bound to be “pragmatic and selective.” That much should be gleaned from this discussion of the work of the Council in 2013/2014, a period characterized by the wide range of its responses—all hinging on its internal political dynamics—to extraordinarily complex inter-state, intra-state, and transnational threats that some view as the attributes of an emerging “new world disorder.”

Chapter 3 discusses the work of the Economic and Social Council (ECOSOC). Tim Wall provides the Commentary—“Ushering in a brave new era.” The regular documentation contains the Report of ECOSOC, comprising three segments. This is followed by five selected documents of particular importance for the work of ECOSOC during the year in review. Finally, the ECOSOC resolutions are provided. Wall points out that the year 2013/2014 was arguably the most important for ECOSOC since 2001, when the Council paved the way for the United Nations’ landmark summit on Financing for Development (2002, Monterrey, Mexico). ECOSOC put into action two crucial reforms: breaking up its marathon July meeting into separate components scattered over the course of the calendar, and the inauguration of the Council’s sponsorship of the High-Level Political Forum, a body designed to guide the post-2015 development agenda. ECOSOC also addressed a range of critical issues on the world economic and social agenda, although with only

modest results. The discussions around the role of partnerships may be the most important current contribution of ECOSOC to retaining and extending the Organization's viability. The year's talks clearly underscored that active engagement of non-governmental organizations will be needed. But the world organization would need to maintain a tight grip on arrangements and demand high standards for entities that wanted to participate—especially in the case of business. Finally, Wall points to General Assembly resolution A/RES/68/1, which recognizes that ECOSOC has an important role as a platform for multi-stakeholder participation and for engaging all relevant stakeholders in the work of the Council. Indeed, the Council does have wider and deeper experience than any other United Nations body in bringing a range of actors together in the same room with governments. The results of the exercise of this function of ECOSOC will likely have much to do with how well the United Nations ushers in a complex, wide-ranging, and very ambitious set of global goals and targets, starting in 2016.

Chapter 4 presents the work of the International Court of Justice (ICJ) and International Criminal Tribunals. Alexander K.A. Greenawalt provides the Commentary—"Continuity and change." The regular documentation contains the annual reports of the ICJ and the international criminal tribunals and gives details of the ICJ's jurisdiction, its composition, and the work undertaken. Greenawalt notes that 2013/2014 presented a story of continuity, as the ICJ continued to resolve boundary disputes, an area in which the Court has proven successful in the past, and the international criminal tribunals largely developed themes introduced in prior years. Nevertheless, Greenawalt points to a few issues that stood out. Developments present an especially stark example of both the possibilities and the limits of international judicial enforcement authority. In some cases—such as the boundary disputes decided by the ICJ last year and those prosecutions that have proceeded to trial in the criminal tribunals—international adjudication has proven to be an effective means to resolve interstate disputes and impose accountability for violations of international law. But other examples—such as Japan's decision to implement a new whaling program, the frustrated attempts of the International Criminal Court (ICC) to prosecute Kenyan President Uhuru Kenyatta and Sudanese President Omar al-Bashir, and the recourse of the Special Tribunal for Lebanon (STL) to an in absentia trial—highlight the degree to which successes hinge upon state cooperation. An additional theme identified by Greenawalt concerns the balance of international and domestic authority over matters regulated by international law. *Australia v. Japan* required the ICJ to consider whether or not to defer to Japan's own determination that it was conducting scientific research. The Court rejected Japan's position, but the issue may well return to the Court after Japan implements its redesigned whaling program. The Libya cases required the ICC to consider the degree of discretion afforded states under the Rome Statute to investigate and prosecute cases that might otherwise be tried at the ICC itself. And the Kenya cases have forced the Court to confront the competing demands of criminal law and head-of-state duties. Finally, the Šainović case highlights the challenge of maintaining consistency within international law. The International Tribunal for the Former Yugoslavia Appeals Chamber has now issued two divergent opinions on the matter of accomplice liability, neither of which mirrors the approach set forth in the ICC's Rome Statute. With no appeals court authorized to resolve such conflicts, Greenawalt argues that it remains for the international tribunals themselves to choose between the paths of fragmentation and harmonization.

Chapter 5 describes the work of the UN Secretariat. Khalil A. Hamdani provides the Commentary—"Cooperation in a time of conflict." The regular documentation contains the Annual Report of the Secretary-General for the 68th session of the General Assembly and a number of annual reports of various funds and programs of the United Nations system. Hamdani observes that the preoccupation with a post-2015 development agenda while development unravels in local conflict situations may seem like Nero fiddling while Rome burns. However, there is a close link between poverty and security. All developing countries in a conflict situation have major shortfalls in the achievement of the Millennium Development goals. The least developed countries are less resilient to natural disasters and more vulnerable to climate change. The Ebola epidemic erupted in countries that rank near the bottom of the human development index. Emergency actions put out fires, but sustainable development prevents fires from starting. The United Nations has an important role to play on both fronts. It is hoped that it will continue to advance much-needed cooperation in this period of conflict and disorder, economic uncertainty, and big power politics.

We trust that this publication will be of use to all those interested in the work of the United Nations.

Vienna and New York
November 2014

Contributors and Co-editors

Jacques Fomerand had a lengthy career with the UN, and when he retired in 2003 he was director of the North American UN University Office. Since then he has taught in the UN Program at Occidental College, Los Angeles, where he is assistant director. He also teaches at New York University and at John Jay College of Criminal Justice at City University of New York. He is widely published on matters related to international relations, international organizations, human rights, and global human security issues.

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