

capability' (p 250). Two case-studies of counterproliferation-oriented pre-emptive uses of force (the 2003 military operation against Iraq and the Proliferation Security Initiative) are analysed: the author argues not only that their conformity with existing international law is doubtful, but also that, from a practical point of view, they have produced deleterious blowback effects. The most interesting section is, however, that on *jus ad bellum*. After reviewing several proposals for changing the laws and institutions in the field, Joyner concludes that the international law on the use of force is currently in crisis, the main cause of which is that 'a significant number of states now believe that their vital national security interests require them to act in a manner that is in breach of the laws governing international uses of force laid down in the UN Charter' (p 339). The author maintains that 'this most sensitive area of international relations has exceeded the regulating capacity of the formal sources of international law, and the normative and structural limitations of international law as a legal system' (p 353) and boldly suggests that the rules on the use of force should be 'deformalised' so to become non-binding commitments or soft-law (p 363). This would still 'provide norms to which states would positivistically and explicitly assent' but would also 'allow states with legitimate concerns, as particularly expressed in WMD counter-proliferation strategies, the flexibility they need to deal with modern threats to their vital national security and prosperity interests' (p 371). Whether or not one agrees with Joyner's thought-provoking argument, his reasoning is clear and well supported with references to international legal theory and international relations doctrines.

All in all, Dan Joyner's study is a valuable contribution to the still fairly limited legal literature on disarmament. Scrupulously researched, the book will be of great interest not only to academics and practitioners, but could also be recommended for a postgraduate course on non-proliferation law: as the author makes clear from the outset, the book is addressed to 'an interdisciplinary and interprofessional audience' (p. xxiv) and care is indeed taken to explain, when necessary, some basic international law notions. Minor gripes aside (the two-page index hardly facilitates thematic searches), the ultimate value of the book lies in the fact that it is not only a brilliant critique of non-proliferation law but also a proactive proposal of reforms and solutions to existing problems.

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*The Legal Order of the Oceans: Basic Documents on the Law of the Sea* by AV LOWE AND SAG TALMON (eds) [Hart Publishing, Oxford, 2009, xxviii + 1012 pp, ISBN 978-1-84113-823-7, £45.00 (p/bk)]

One can cheerfully welcome the arrival of this volume as an overdue friend. As the authors point out in their foreword, one of the distinctive characteristics of the law of the sea is its richness of documentary sources. A wide-ranging, judiciously edited volume of such 20<sup>th</sup> and 21<sup>st</sup> century documents has been notably absent from the shelf of standard reference works, a gap this book ably fills. *The Legal Order of the Oceans* can be strongly recommended for any graduate-level course in the subject. On most topics, every 'core' treaty or soft-law instrument is included (the coverage of fisheries law is especially comprehensive) and there is at least one representative example of a legal text on all major 'sectoral' issues (eg sample bilateral ship-boarding agreements dealing with the interception of narcotics or weapons of mass destruction). It will be of use and interest not merely to students, scholars and practitioners of the law of the sea but to a wider audience of environmental and general public international lawyers. It is also surprisingly up-to-date, managing to include even the regional code of conduct on suppressing piracy in the Gulf of Aden concluded in January of this year.

The usual argument against any new collection of primary documents would be that they are all easily available on the internet or are adequately covered by other 'statute' books. Neither is true here. While the law of the sea has historically been a rich field for law-making, not all of its

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documentary sources are widely accessible. Extracts from the International Convention for the Safety of Life at Sea, the International Convention on the Prevention of Pollution from Ships and other treaties for which the International Maritime Organisation is responsible, for example, are valuable inclusions in that they are not widely available with a consolidated set of amendments and current rules unless purchased from the IMO itself. The inclusion of substantial excerpts from current consolidated versions of the major IMO treaties and their annexes thus makes the volume a good investment. Similarly, a consolidated text of the Suppression of Unlawful Acts against the Safety of Maritime Navigation (the SUA Convention) is included, incorporating the amendments introduced to deal with the proliferation of weapons of mass destruction by sea in its 2005 Protocol (which enters force on 28 July 2010). Several other very interesting recent instruments are included, which until recently were not widely available, if at all. The text of the multilateral Caribbean regional agreement on drug trafficking (again, not in force) was until recently only available as a booklet from the Foreign and Commonwealth Office (now out of print);<sup>1</sup> and the Djibouti Code of Conduct on piracy in the Gulf of Aden, referred to above, was not readily available at all.<sup>2</sup>

Other than rarities, the breadth of coverage is admirable and the organization excellent. The book is organised chronologically and each treaty is assigned a document number. Two tables of contents list the material in date and subject order. Perusing the book chronologically, one is given an interesting impression of the evolution of subjects of concern to the international community in the field. A comprehensive index of topics helps in making the connection between treaties dealing with overlapping subject matters. To take a random example, the extensive index entry on pollution directs you to the seven instruments relevant to pollution from aircraft and the one concerning artificial islands. This provides the kind of tool you didn't realise you were missing until it was handed to you.

It is always tempting for a reviewer to suggest what they think could usefully have been added to a collection of documents. When dealing with a 1012 page volume, one should perhaps tread lightly, and not second-guess difficult editorial omissions at the margins. Nonetheless, there are a number of more or less minor matters that could be considered for a second edition. There was probably only space for one Regional Fisheries Management Organisation treaty, the one provided is that of the North Atlantic Fisheries Organization. However, the schemes of control and enforcement passed as rules by RFMOs are perhaps increasingly important, and the inclusion of one such scheme could be useful. Again, for reasons of space it is understandable that only one SUA Convention text is included (the 2005 consolidation noted above), but the absence of a cross-reference in the chronological table of contents gives at first the confusing and mistaken impression that the 1988 text is missing. The always bulky text of the UN Convention on the Law of the Sea is helpfully supplemented by cross-referencing footnotes where it was, in effect, amended by the Implementation Agreement. The UNCLOS provisions on the Commission on the Limits of the Continental Shelf, however, could perhaps also have benefited from a brief footnote to Decision No. 62 of the State Parties, which has effectively excoriated the time-limit provisions and the effect of which is not fully reflected in the Commission's rules (also included). Recent developments which could usefully be added to future editions include Australian Marine Notice 7/2009 (the editors present a useful collection of earlier documents on Australia's highly questionable extension of its system of compulsory pilotage in the Great Barrier Reef area to the Torres Strait) and the Exchange of Letters between the EU and Kenya governing the transfer of piracy suspects for trial. These are all, however, minor suggestions and they are few.

This is an excellent volume, deserving wide adoption both in teaching and as a scholar's or practitioner's desk-reference.

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<sup>1</sup> W Gilmore (ed), *Agreement Concerning Co-operation in Suppressing Illicit Maritime and Air Trafficking in Narcotic Drugs and Psychotropic Substances in the Caribbean Area* (The Stationery Office, London, 2005). However, see now: <http://www.state.gov/s/l/2005/87198.htm>.

<sup>2</sup> Although it can now be found at: <http://www.fco.gov.uk/en/global-issues/conflict-prevention/piracy/>.

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