National Security Law Documents
National Security Law Documents

Second Edition

John Norton Moore
Guy B. Roberts
Robert F. Turner

CAROLINA ACADEMIC PRESS
Durham, North Carolina
Contents

Preface xvi
Acknowledgments xviii
The Editors xix
Alphabetical List of Documents xx

Part I
Introduction

A. The Goals of United States Foreign Policy and Their Relation to National Security

1:1 Washington, Farewell Address [1796] 5
1:2 Monroe Doctrine [1823] 9
1:3 Clark, Memorandum on the Monroe Doctrine [1928] 12
1:4 Hull, Canons of International Conduct [1937] 18
1:5 Kennan, The Long Telegram [1946] 19
1:6 Truman, The Truman Doctrine, Special Message to the Congress on Greece and Turkey, March 12, 1947 29
1:7 Marshall Plan [1947] 33
1:8 NSC 68 (Soviet Union Nuclear Capabilities) [1950] 35
1:10 Reagan, Address to Members of the British Parliament [1982] 71

Part II
The International Law of Conflict Management:
Institutional Modes of Conflict Management

A. Global International Organizations

2:1 Wilson, “Fourteen Points” Speech [1918] 77
2:2 Treaty of Versailles [1919] 79
2:3 Charter of the United Nations [1945] 85
2:4 Uniting for Peace Resolution [1950] 96

B. Alliances, Collective Security and Regional Arrangements

2:5 Act of Chapultepec [1945] 101
2:6 Inter-American Treaty of Reciprocal Assistance (Rio Treaty) [1948] 104
CONTENTS

2:9 Southeast Asia Collective Defense Treaty (Manila Pact) [1954] 125

C. The Machinery for the Peaceful Resolution of Disputes

2:11 Statute of the International Court of Justice [1945] 145

D. The Lawfulness of the Use of Force in International Relations:
   Norms Concerning the Initiation of Coercion

2:12 Kellogg-Briand Pact (Pact of Paris) [1928] 153
2:13 Declaration on the Inadmissibility of Intervention in the Domestic Affairs of States and the Protection of Their Independence and Sovereignty [1965] 155
2:15 Definition of Aggression Resolution (Draft Proposal) [1973] 165
2:17 UN Security Council Resolution 678 (Iraq and Kuwait) [1990] 171
2:18 UN Security Council Resolution 687 (Iraq and Kuwait) [1991] 172

E. Human Rights for Contexts of Violence:
   Norms Concerning the Conduct of Hostilities

2:20 Instructions for the Government of Armies of the United States in the Field (Lieber Code) [1863] 183
2:21 Hague Convention IV Respecting the Laws and Customs of War on Land [1907] 193
2:22 Hague Convention V Respecting the Rights and Duties of Neutral Powers and Persons in Case of War on Land [1907] 198
2:25 Geneva Convention for the Amelioration of the Condition of the Wounded and Sick in Armed Forces in the Field (First Geneva Convention) [1949] 206
2:26 Geneva Convention Relative to the Treatment of Prisoners of War (Third Geneva Convention) [1949] 214
## CONTENTS

<table>
<thead>
<tr>
<th>Page</th>
<th>Description</th>
</tr>
</thead>
<tbody>
<tr>
<td>2:29</td>
<td>Protocol Additional to the Geneva Conventions of 12 August 1949, and Relating to the Protection of Victims of Non-International Armed Conflicts (Protocol II) [1977]</td>
</tr>
</tbody>
</table>

### F. War Crimes and the Nuremberg Principles:
The Ascription of Personal Responsibility for Knowing Violation of the Major Norms of Conflict Management

<table>
<thead>
<tr>
<th>Page</th>
<th>Description</th>
</tr>
</thead>
<tbody>
<tr>
<td>2:33</td>
<td>London Charter [1945]</td>
</tr>
<tr>
<td>2:34</td>
<td>Nuremberg Trials Final Report: Control Council Law No. 10 [1945]</td>
</tr>
<tr>
<td>2:35</td>
<td>Affirmation of the Principles of International Law Recognized by the Charter of the Nürnberg Tribunal [1946]</td>
</tr>
<tr>
<td>2:36</td>
<td>UN Security Council Resolution 780 (War Crimes in the Former Yugoslavia) [1992]</td>
</tr>
<tr>
<td>2:37</td>
<td>UN Security Council Resolution 827 (International Tribunal for the Former Yugoslavia) [1993]</td>
</tr>
<tr>
<td>2:38</td>
<td>UN Security Council Resolution 955 (International Tribunal for Rwanda) [1994]</td>
</tr>
<tr>
<td>2:40</td>
<td>UN Security Council Resolution 1315 (Sierra Leone Special Court) [2000]</td>
</tr>
<tr>
<td>2:41</td>
<td>Statute of the International Criminal Tribunal for the Former Yugoslavia [2004]</td>
</tr>
</tbody>
</table>

### G. International Responses to Transnational Terrorism:
The Criminal Responsibility for Human Rights Violations in Contravention of International Norms of Conduct

<table>
<thead>
<tr>
<th>Page</th>
<th>Description</th>
</tr>
</thead>
<tbody>
<tr>
<td>2:42</td>
<td>Tokyo Convention on Offences and Certain Other Acts Committed on Board Aircraft [1963]</td>
</tr>
<tr>
<td>2:45</td>
<td>Convention to Prevent and Punish the Acts of Terrorism Taking the Form of Crimes against Persons and Related Extortion That Are of International Significance [1971]</td>
</tr>
</tbody>
</table>
## CONTENTS

<p>| | | |</p>
<table>
<thead>
<tr>
<th></th>
<th></th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>2:55</td>
<td>UN Security Council Resolution 731 (Libya) [1992]</td>
<td>374</td>
</tr>
<tr>
<td>2:56</td>
<td>UN Security Council Resolution 748 (Libya) [1992]</td>
<td>376</td>
</tr>
<tr>
<td>2:59</td>
<td>UN Security Council Resolution 1373 ( Suppressing Terrorism Financing) [2001]</td>
<td>385</td>
</tr>
<tr>
<td>2:60</td>
<td>UN Security Council Resolution 1390 (Taliban/Al-Qaeda Assets) [2002]</td>
<td>388</td>
</tr>
<tr>
<td>2:61</td>
<td>UN Security Council Resolution 1456 (Combating Terrorism) [2003]</td>
<td>390</td>
</tr>
<tr>
<td>2:62</td>
<td>UN Security Council Resolution 1526 (Freezing Taliban/Al-Qaeda Assets) [2004]</td>
<td>392</td>
</tr>
<tr>
<td>2:63</td>
<td>UN Security Council Resolution 1540 (Weapons of Mass Destruction) [2004]</td>
<td>394</td>
</tr>
</tbody>
</table>

### Part III

**Arms Control, Disarmament, Non-Proliferation and Confidence-Building**

#### A. Multilateral Arms Control and Disarmament Agreements

<p>| | | |</p>
<table>
<thead>
<tr>
<th></th>
<th></th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>3:1</td>
<td>Declaration Renouncing the Use, in Time of War, of Explosive Projectiles under 400 Grammes Weight (St. Petersburg, 1868)</td>
<td>403</td>
</tr>
<tr>
<td>3:2</td>
<td>Naval Armament Limitation Treaty [1922]</td>
<td>405</td>
</tr>
<tr>
<td>3:3</td>
<td>Protocol for the Prohibition of the Use in War of Asphyxiating, Poisonous or Other Gases, and of Bacteriological Methods of Warfare [1925]</td>
<td>407</td>
</tr>
<tr>
<td>3:4</td>
<td>Treaty between the United States and Other Powers for the Limitation and Reduction of Naval Armament [1930]</td>
<td>408</td>
</tr>
<tr>
<td>3:5</td>
<td>Antarctic Treaty [1959]</td>
<td>409</td>
</tr>
<tr>
<td>3:7</td>
<td>Treaty on the Non-Proliferation of Nuclear Weapons</td>
<td>411</td>
</tr>
</tbody>
</table>
CONTENTS

3:10 Convention on the Prohibition of Military or Any Other Hostile Use of Environmental Modification Techniques [1977] 420

B. Regional Arms Control and Disarmament Regimes

3:15 Treaty for the Prohibition of Nuclear Weapons in Latin America (Treaty of Tlatelolco) [1967] 455
3:18 White House Fact Sheet: Adaptation of the Treaty on Conventional Armed Forces in Europe (CFE) [1999] 480
3:19 Agreement on Adaptation of the Treaty on Conventional Armed Forces in Europe (CFE Treaty) [1999] 482

C. Bilateral Arms Control and Disarmament Agreements between the United States and the Soviet Union Successor States

3:22 Interim Agreement between the United States of America and the Union of Soviet Socialist Republics on Certain Measures with Respect to the Limitation of Strategic Offensive Arms (SALT I) [1972] 517
3:23 Basic Principles of Relations between the United States of America and the Union of Soviet Socialist Republics [1972] 520
3:24 Joint U.S.-Soviet Statement, 24 November 1974 on Further Limitation of Strategic Offensive Arms 522
3:25 Treaty between the United States of America and the Union of Soviet Socialist Republics on the Limitation of Strategic Offensive Arms (SALT II) [1979] 523
x CONTENTS

3:28 Treaty between the United States of America and the Union of Soviet Socialist Republics on the Reduction and Limitation of Strategic Offensive Arms (START I) [1991] 536
3:29 Cooperative Threat Reduction Program or Soviet Nuclear Threat Reduction Act of 1991 546
3:30 Treaty between the United States of America and the Russian Federation on Further Reduction and Limitation of Strategic Offensive Arms (START II) [1993] 551
3:31 Memorandum of Understanding on Notifications of Missile Launches [2000] 558
3:32 Treaty between the United States of America and the Russian Federation on Strategic Offensive Reductions (Sort/Moscow Treaty) [2002] 563
3:33 Joint Declaration on the New Strategic Relationship to the Treaty on Strategic Offensive Reductions (U.S.A. and Russian Federation) [2002] 565

D. United States Arms Control and Disarmament Initiatives and Programs

3:34 Baruch Plan [1946] 573

E. Non-Proliferation and Counter-Proliferation Initiatives

3:37 Nuclear Suppliers Group and Zangger Committee 589
3:38 Australia Group (Chemical Weapons) [formed 1984] 592
3:39 Missile Technology Control Regime [formed 1987] 595
3:40 Memorandum of Disapproval for the Omnibus Export Amendments Act (George Bush) [1990] 597
3:41 Soviet-United States Joint Statement on Non-Proliferation June 4, 1990 600
3:42 Executive Order 12938 (Proliferation of Weapons of Mass Destruction) [Clinton, 1994] 604
3:43 Proliferation Security Initiative (Weapons of Mass Destruction) [2004] 608
3:44 Executive Order 13382 (Blocking Property of WMD Proliferators) [Bush, 2005] 611

F. Confidence-Building, Transparency and Risk Reduction

1. Multilateral

3:46 International Code of Conduct against Ballistic Missile Proliferation (ICOC) [2002] 619
## CONTENTS


### 2. Bilateral Efforts between the U.S. and the Soviet Union or Successor States

#### 3.48 Memorandum of Understanding between the United States of America and the Union of Soviet Socialist Republics Regarding the Establishment of a Direct Communications Link [1963] 627


#### 3.50 Standing Consultative Commission on Arms Limitation [1972] 632

#### 3.51 Agreement between the United States of America and the Union of Soviet Socialist Republics to Expand the U.S.-U.S.S.R. Direct Communications Link [1984] 633

#### 3.52 Agreement between the United States of America and the Union of Soviet Socialist Republics on the Establishment of Nuclear Risk Reduction Centers [1987] 635


#### 3.54 Charter for American-Russian Partnership and Friendship [1992] 640

### 3. Joint Declarations


#### 3.56 Charter of Paris for a New Europe [1990] 658

#### 3.57 OAS General Assembly Resolution 1080 (on Democracy) [1991] 667

#### 3.58 Vienna Document 1999 of the Negotiations on Confidence and Security-Building Measures 668

## Part IV

National Security and Other International Legal Issues

### A. Law of the Sea


#### 4.2 Statement of the President on the UN Law of the Sea Convention [1983] 703

#### 4.3 Joint Statement by the United States of America and the Union of Soviet Socialist Republics on International Law Governing Innocent Passage [1989] 705

### 1. Special Claims

#### 4.4 Interdiction of the Delivery of Offensive Weapons to Cuba Presidential Proclamation 3504, October 23, 1962 709

#### 4.5 Declaration of a Maritime Exclusion Zone and the Declaration of a Total Exclusion Zone [1982] 710
B. National Security and Human Rights

| 4:6  | Universal Declaration of Human Rights [1948] | 713 |
| 4:10 | Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment [1984] | 725 |
| 4:12 | Torture Victim Protection Act of 1991 | 740 |
| 4:13 | Final Warsaw Declaration: Toward a Community of Democracies [2000] | 742 |

C. Cyber Threats

| 4:14 | Convention on Cybercrime (Cyber Crime) [2001] | 749 |

Part V

Domestic Law and National Security

A. The National Security Process

| 5:1  | National Security Act of 1947 | 755 |
| 5:2  | National Security Act Amendments of 1949 | 764 |
| 5:3  | Goldwater-Nichols Department of Defense Reorganization Act of 1986 | 771 |

B. Homeland Security and Counterterrorism

| 5:6  | Posse Comitatus Act [1878] | 791 |
| 5:8  | USA PATRIOT Act [2001] | 798 |
| 5:9  | Homeland Security Act of 2002 | 813 |
| 5:10 | Executive Order 13354 (National Counterterrorism Center) [Bush, 2004] | 822 |
| 5:11 | Executive Order 13356 (Strengthening the Sharing of Terrorism Information to Protect Americans) [Bush, 2004] | 826 |
| 5:12 | Providing Material Support or Resources to Designated Foreign Terrorist Organizations [2004] | 830 |
| 5:13 | Designation of Foreign Terrorist Organizations [2005] | 835 |
## CONTENTS

### C. The Constitutional Framework for the Division of Powers between the Congress and the President

<table>
<thead>
<tr>
<th>Page</th>
<th>Document</th>
<th>Year</th>
</tr>
</thead>
<tbody>
<tr>
<td>5:14</td>
<td>U.S. Constitution Articles I, II, III, VI and Amendment XIV [1868]</td>
<td>841</td>
</tr>
<tr>
<td>5:15</td>
<td>Act Creating Department of Foreign Affairs [1789]</td>
<td>845</td>
</tr>
<tr>
<td>5:16</td>
<td>First Appropriations Act for Foreign Affairs [1790]</td>
<td>846</td>
</tr>
</tbody>
</table>

#### 1. Treaty Power

<table>
<thead>
<tr>
<th>Page</th>
<th>Document</th>
<th>Year</th>
</tr>
</thead>
<tbody>
<tr>
<td>5:17</td>
<td>Case-Zablocki Act [1972]</td>
<td>849</td>
</tr>
<tr>
<td>5:18</td>
<td>Circular 175 (Department of State) [1985]</td>
<td>851</td>
</tr>
<tr>
<td>5:19</td>
<td>Senate Resolution of Ratification of the INF Treaty [1988]</td>
<td>863</td>
</tr>
</tbody>
</table>

#### 2. War Powers

<table>
<thead>
<tr>
<th>Page</th>
<th>Document</th>
<th>Year</th>
</tr>
</thead>
<tbody>
<tr>
<td>5:20</td>
<td>Declaration of War — War of 1812</td>
<td>867</td>
</tr>
<tr>
<td>5:21</td>
<td>Declaration of War — Mexican-American War (An Act Providing for Prosecution of the War between the United States and the Republic of Mexico) [1846]</td>
<td>868</td>
</tr>
<tr>
<td>5:22</td>
<td>Declaration of War — Spanish-American War (Bill (H.R. 10086) Declaring War between the United States of America and the Kingdom of Spain) [1898]</td>
<td>870</td>
</tr>
<tr>
<td>5:23</td>
<td>Declaration of War — World War I [1917]</td>
<td>871</td>
</tr>
<tr>
<td>5:24</td>
<td>Declaration of War — World War II [1941]</td>
<td>872</td>
</tr>
<tr>
<td>5:25</td>
<td>Formosa Resolution [1955]</td>
<td>873</td>
</tr>
<tr>
<td>5:26</td>
<td>Joint Resolution to Promote Peace and Stability in the Middle East [1957/1961]</td>
<td>874</td>
</tr>
<tr>
<td>5:27</td>
<td>Cuban Resolution [1962]</td>
<td>876</td>
</tr>
<tr>
<td>5:28</td>
<td>Southeast Asia Resolution (Gulf of Tonkin) [1964]</td>
<td>877</td>
</tr>
<tr>
<td>5:29</td>
<td>National Commitments Resolution [1969]</td>
<td>878</td>
</tr>
<tr>
<td>5:30</td>
<td>War Powers Resolution [1973]</td>
<td>879</td>
</tr>
<tr>
<td>5:33</td>
<td>Boland Amendment (Limiting Aid to Nicaraguan Contras) [1983]</td>
<td>887</td>
</tr>
<tr>
<td>5:35</td>
<td>Iraq Liberation Act of 1998</td>
<td>890</td>
</tr>
</tbody>
</table>

#### 3. Executive Privilege

<table>
<thead>
<tr>
<th>Page</th>
<th>Document</th>
<th>Year</th>
</tr>
</thead>
<tbody>
<tr>
<td>5:38</td>
<td>Washington, Message to the House Regarding Documents Relative to the Jay Treaty, March 30, 1796</td>
<td>901</td>
</tr>
<tr>
<td>5:39</td>
<td>Madison, Speech to the House of Representatives on the Jay Treaty, April 6, 1796</td>
<td>903</td>
</tr>
<tr>
<td>5:40</td>
<td>Nixon, Statement on Executive Privilege, March 12, 1973, with Related Memorandum Establishing a Procedure to Govern Compliance with Congressional Demands for Information</td>
<td>904</td>
</tr>
</tbody>
</table>
CONTENTS

D. Access to Information

5:42 Privacy Act of 1974 919
5:46 Executive Order 12968 (Employee Access to Classified Information) [Clinton, 1995] 934
5:49 Executive Order 13292 (Classified National Security Information) [Bush, 2003] 947
5:50 Executive Order 13381 (Eligibility for Access to Classified Information) [Bush, 2003] 956

E. Intelligence and Counter-Intelligence

5:51 Senate Standing Order 79.13 (Senate Select Committee on Intelligence) [1976] 961
5:52 House of Representatives Rule XLVIII, Permanent Select Committee on Intelligence [1977/1997] 967
5:53 Foreign Intelligence Surveillance Act [1978] 971
5:54 Executive Order 12333 (United States Intelligence Activities As Amended by Executive Orders 13284 and 13355) [Reagan, 1981] 980
5:55 Intelligence Identities Protection Act of 1982 988
5:56 Hughes-Ryan Amendment (Intelligence Oversight) [1991] 991
5:57 Executive Order 12863 (President’s Foreign Intelligence Advisory Board, As Amended by Executive Orders 13070, 13301, 13376) [Clinton, 1993] 992
5:58 Executive Order 12949 (Foreign Intelligence Physical Searches As Amended by Executive Order 13383) [Clinton, 1995] 995
5:59 Economic Espionage Act of 1996 996
5:61 Intelligence Reform and Terrorism Prevention Act of 2004 1006

F. Foreign Assistance

5:62 Foreign Assistance Act of 1961, As Amended 1055

G. Emergency Preparedness

5:63 Defense Production Act of 1950 1071
5:64 Strategic and Critical Materials Stockpiling Act [1979] 1075
CONTENTS

5:68 Stafford Disaster Relief and Emergency Assistance Act [2000] 1090

H. Trade and Technology Transfer

5:69 Trading with the Enemy Act of 1917 (with Amendments) 1099
5:70 Export Administration Act of 1979 1103
5:71 Office of Export Administration Enforcement Regulations [1996] 1122
5:72 Know Your Customer Guidance and Red Flag Indicators [1999] 1125
5:73 Arms Export Control Act [2004] 1128

I. Immigration and Refugees

5:74 Immigration and Nationality Act [1952] 1151
5:77 Executive Order 12807 (Interdiction of Illegal Aliens, As Amended by Executive Order 13286) [Bush, 1992] 1170

J. The Environment

5:78 National Environmental Policy Act of 1969 1175
5:79 Clean Air Act 1177
5:80 Clean Water Act 1186
5:81 Endangered Species Act of 1973 1189
5:82 Executive Order 12114 (Environmental Effects Abroad of Major Federal Actions) [Carter, 1979] 1192
5:83 Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (CERCLA) 1196

K. Space Law

5:84 National Aeronautics and Space Act of 1958 1203
5:85 Treaty on Principles Governing the Activities of States in the Exploration and Use of Outer Space, Including the Moon and Other Celestial Bodies [1967] 1205

Appendix
Selected Web Sites Which Publish Documents Concerning National Security Law

Selected Web Sites 1209
Preface

Four years have passed since horrendous terrorist attacks demonstrated that a post-Cold War America continues to face serious threats to its national security. Not surprisingly, the consequences of this realization included a dramatic increase in interest in various aspects of national security law—a legal specialty area pioneered here at the University of Virginia School of Law more than three decades ago. Most law schools now offer at least one course or seminar in this area, and the Association of American Law Schools has now designated national security law as a recognized specialty. Conflicts in Afghanistan and Iraq have brought once esoteric provisions of the 1949 Geneva Conventions to the front pages, while the USA PATRIOT Act has led some to fear even for the civil liberties of Americans in the global war on terrorism. In sum, today these issues are every bit as important as they were at the height of the Cold War.

When two of the editors of this volume co-founded the Center for National Security Law twenty-five years ago, Virginia remained the only law school teaching national security law, and one of our first priorities was to prepare teaching materials so that others could join us in teaching this new field. First published in 1990, with a new edition released in 2005, National Security Law remains the most comprehensive text on the subject, featuring contributions from both leading scholars across American (and around the world) and key present and former practitioners.

The first edition of National Security Law Documents was published in 1995 to provide a convenient collection of primary documents for students and to serve as a free-standing desk reference for practitioners. In addition to excerpts from key treaties, statutes, executive orders, and other legal instruments, the volume also includes such important non-legal documents as President George Washington’s Farewell Address and George Kennan’s Long Telegram.

Like the casebook, National Security Law Documents is comprehensive and interdisciplinary in its approach. It includes key documents concerning U.S. foreign policy, institutional modes of conflict management, norms concerning the initiation of coercion, human rights, war crimes, international terrorism, arms control, separation of constitutional powers, and intelligence—to name but a few of the included topics. The editors believe that National Security Law Documents represents the most useful collection of documents relating to the field of national security law available today in a single volume.

Through the wonders of the Internet, most of the documents excerpted in this volume are now available online. Readers will find URLs included in most of the footnotes. A list of selected key Web sites is also appended.

John Norton Moore
Guy B. Roberts
Robert F. Turner

December 3, 2005
Charlottesville, Virginia
Acknowledgments

The second edition of National Security Law Documents is the product of the efforts of many, and the editors wish to express appreciation to all those who worked diligently on both the first edition and this major revision.

Our editorial assistants have spent many hours researching and collecting official documents, inputting data, proofreading, and otherwise working to make sure this edition is comprehensively and accurately updated. For these fine efforts we thank Judith A. Ellis, David M. Edinger, Elyse H. Hunter, and Joanna C. Murdick. A number of Center student research assistants have also helped in the task of collecting and preparing documents for inclusion; and for this work we are grateful to Alexander B. Patterson, Cameron N. Brown, and Ji Lee. Ms. Donna Ganoe, the Center’s Executive Administrator since 1987, has also been particularly helpful in overseeing and coordinating the editorial and student assistants.

Additionally, Taylor Fitchett and research librarians Rob (Robert C.) Richards and Ben Doherty at the Morris Law Library at the University of Virginia School of Law have provided crucial assistance in cite-checking the footnotes, and to them we are deeply indebted.

The second edition of National Security Law Documents builds on the first edition which was published in 1995. We continue to be grateful to the many people who labored extensively to produce it: Frederick S. Tipson, the former Chief Council to the Senate Foreign Relations Committee, Susan Broadwater-Chen, Freda Berman, Irum Hassan-Khan, Kathy Wood, Kay Wood, and student research assistants Suzanne Anselmo, Bill Aniskovich, Julia Bunck, Matt Cuscias, Mark Hoch, Paula Hopping, Thomas Plochan, Patty Summers, and Robert Vander Lugt.
The Editors

John Norton Moore is the Walter L. Brown Professor of Law at the University of Virginia School of Law where he teaches numerous international and national security law courses. He also directs the University’s Center for National Security Law and the Center for Oceans Law & Policy and was the Director of the Graduate Law Program at Virginia for more than twenty years. Viewed by many as the founder of the field of national security law, Professor Moore chaired the American Bar Association’s prestigious Standing Committee on Law and National Security for four terms. He is the author or editor of 32 books and more than 175 scholarly articles and served for two decades on the editorial board of the American Journal of International Law. He is currently an honorary editor of the Journal. He is a member of the Council on Foreign Relations, on the Board of Directors of Freedom House, the American Law Institute, the American Society of International Law, the Order of the Coif, Phi Beta Kappa, and numerous other professional and honorary organizations. His most recent books include Solving the War Puzzle (2004) and Civil Litigation Against Terrorism (ed. 2004).

In addition to his scholarly career, Professor Moore has a distinguished record of public service. Among seven Presidential appointments, he has served two terms as the Senate-confirmed Chairman of the Board of Directors of the United States Institute of Peace and, as the first Chairman, set up this new agency. He also served as the Counselor on International Law to the Department of State, as Ambassador and Deputy Special Representative of the President to the Law of the Sea Conference, Chairman of the National Security Council Interagency Task Force on the Law of the Sea, and as a member of the United States’ legal team before the International Court of Justice in the Gulf of Maine and Paramilitary Activities cases (a Deputy Agent for the United States in the Paramilitary Activities case). Professor Moore served as a Member of the Director of Central Intelligence’s Historical Review Board from 1998–2002.

In the past, he has served as a Consultant to both the President’s Intelligence Oversight Board and the Arms Control and Disarmament Agency. He has also been a member of the National Advisory Committee on Oceans and Atmosphere, the United States Delegation to the Conference on Security and Cooperation in Europe, the United States Delegation to the United Nations General Assembly, and the Presidential Delegation of the United States to observe the 1984 elections in El Salvador. In 1990, he served, with the Deputy Attorney-General of the United States, as the Co-Chairman of the United States-USSR talks on the Rule of Law. He also served as the legal advisor to the Kuwait Representative to the United Nations Iraq-Kuwait Boundary Demarcation Commission, and as a consultant to the OSS Society.

Guy B. Roberts is the Deputy Assistant Secretary General for Weapons of Mass Destruction Policy and Director, Nuclear Policy Planning Directorate for the North Atlantic Treaty Organization (NATO). In that capacity he is responsible for developing
policy on issues related to combating the proliferation of weapons of mass destruction and overseeing NATO’s nuclear deterrence posture. Prior to his current position Mr. Roberts was the Principal Director for Negotiations Policy in the Office of the Secretary of Defense. In that capacity he was responsible for advising the Assistant Secretary for International Security Policy and other senior DoD officials on the entire range of United States arms control and non-proliferation policies, and for implementing policy guidance and Defense Department positions for current and emerging proliferation issues in multilateral arms control and disarmament fora. Prior to that Mr. Roberts was the Associate Counsel (Arms Control) for the Department of the Navy. His responsibilities included reviewing all departmental programs to ensure compliance with international treaty obligations and to advise the Chief of Naval Operations and the Secretary of the Navy on arms control and nonproliferation issues.

Mr. Roberts also served for twenty-five years in the United States Marine Corps before retiring with the rank of Colonel. During that time he held a number of positions including representing the Department of Defense at the United Nations Conference on Disarmament and the International Atomic Energy Agency, and serving as the senior legal advisor for major combatant commands. He has also participated in numerous negotiations with foreign governments on military issues, served as a prosecutor and defense counsel in courts-martial, and was an infantry company and platoon commander.

Mr. Roberts received his law degree from the University of Denver, and he holds master’s degrees in international and comparative law from Georgetown University and in international relations from the University of Southern California. He also has a master’s degree in strategic studies from the Naval War College where he graduated with highest distinction and won the Stephen B. Luce Award for academic achievement. He is admitted to practice in Colorado, California, Arizona and before the Military Court of Criminal Appeals and the U.S. Supreme Court. Mr. Roberts has written extensively on nonproliferation, arms control, terrorism and law of war issues.

Robert F. Turner holds both professional and academic doctorates from the University of Virginia School of Law, where in 1981 he co-founded the Center for National Security Law with Professor Moore. A former Army Captain who served twice in Vietnam, he left the military in 1971 to accept a position at the Hoover Institution on War, Revolution and Peace at Stanford University, where he was a Public Affairs Fellow and Associate Editor of the Yearbook on International Communist Affairs. His extensive federal government service includes five years as national security adviser to Senator Robert P. Griffin, a member of the Foreign Relations Committee, and subsequent assignments as Special Assistant to the Under Secretary of Defense for Policy, Counsel to the President’s Intelligence Oversight Board at the White House, and Principal Deputy Assistant Secretary of State for Legislative and Intergovernmental Affairs. He served as the first President of the congressionally established U.S. Institute of Peace and during 1994–95 held the Charles H. Stockton Chair of International Law at the U.S. Naval War College. He has also been a Distinguished Lecturer at the U.S. Military Academy at West Point and a Silverman Lecturer at the U.S. Supreme Court Historical Society.

In addition to teaching advanced national security law seminars with Professor Moore at the Law School, for many years Professor Turner also taught International Law, U.S. Foreign Policy, Foreign Policy and the Law, and a seminar on the Vietnam War in what is now Virginia's Woodrow Wilson Department of Politics. Each summer he runs the Center’s National Security Law Institute for training law professors and gov-
THE EDITORS

ernment attorneys who wish to teach or practice in this growing new field. A former three-term Chairman of both the ABA Standing Committee on Law and National Security and the Committee on Executive-Congressional Relations of the ABA Section of International Law and Practice, for many years he served as editor of the ABA National Security Law Report. Turner has testified before more than a dozen committees of Congress, is the author or editor of more than a dozen books and has published in numerous law reviews and professional journals. He has contributed to the editorial pages of the New York Times, Wall Street Journal, USA Today, Washington Post, and most other major American newspapers, and is a member of the Council on Foreign Relations and the Committee on the Present Danger.
Alphabetical List of Documents

Act Creating Department of Foreign Affairs [1789] 845
Act of Chapultepec [1945] 101
Affirmation of the Principles of International Law Recognized by the Charter of the Nürnberg Tribunal [1946] 297
Agreement between the United States of America and the Union of Soviet Socialist Republics on Notifications of Launches of Intercontinental Ballistic Missiles and Submarine-Launched Ballistic Missiles [1988] 534
Agreement between the United States of America and the Union of Soviet Socialist Republics to Expand the U.S.-U.S.S.R. Direct Communications Link [1984] 633
Agreement between the United States of America and the Union of Soviet Socialist Republics on the Establishment of Nuclear Risk Reduction Centers [1987] 635
Agreement on Adaptation of the Treaty on Conventional Armed Forces in Europe (CFE Treaty) [1999] 482
Antarctic Treaty [1959] 409
Arms Export Control Act [2004] 1128
Australia Group (Chemical Weapons) [formed 1984] 592
Authorization for the Use of Military Force against Iraq [Resolution of 2002] 894
Authorization for Use of Military Force (against 9/11 Terrorists) [2001] 893
Baruch Plan [1946] 573
Basic Principles of Relations between the United States of America and the Union of Soviet Socialist Republics [1972] 520
Boland Amendment (Limiting Aid to Nicaraguan Contras) [1983] 887
Case-Zablocki Act [1972] 849
Charter of Paris for a New Europe [1990] 658
ALPHABETICAL LIST OF DOCUMENTS

Circular 175 (Department of State) [1985] 851
Clark, Memorandum on the Monroe Doctrine [1928] 12
Classified Information Procedures Act [1980] 925
Clean Air Act 1177
Clean Water Act 1186
Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (CERCLA) 1196
Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment [1984] 725
Convention on Cybercrime (Cyber Crime) [2001] 749
Convention on the Prohibition of Military or Any Other Hostile Use of Environmental Modification Techniques [1977] 420
Convention on the Prohibition of the Development, Production and Stockpiling of Bacteriological (Biological) and Toxin Weapons and Their Destruction [1972] 417
Convention Relating to the Status of Refugees [1954] 1162
Convention to Prevent and Punish the Acts of Terrorism Taking the Form of Crimes against Persons and Related Extortion That Are of International Significance [1971] 346
Cooperative Threat Reduction Program or Soviet Nuclear Threat Reduction Act of 1991 546
Cuban Resolution [1962] 876
Declaration of a Maritime Exclusion Zone and the Declaration of a Total Exclusion Zone [1982] 710
Declaration of War — Mexican-American War (An Act Providing for Prosecution of the War between the United States and the Republic of Mexico) [1846] 868
Declaration of War — Spanish-American War (Bill (H.R. 10086) Declaring War between the United States of America and the Kingdom of Spain) [1898] 870
ALPHABETICAL LIST OF DOCUMENTS

Declaration of War — War of 1812 867
Declaration of War — World War I [1917] 871
Declaration of War — World War II [1941] 872
Declaration on the Inadmissibility of Intervention in the Domestic Affairs of States and the Protection of Their Independence and Sovereignty [1965] 155
Declaration Renouncing the Use, in Time of War, of Explosive Projectiles under 400 Grammes Weight (St. Petersburg, 1868) 403
Defense Production Act of 1950 1071
Definition of Aggression Resolution (Draft Proposal) [1973] 165
Designation of Foreign Terrorist Organizations [2005] 835
Document of the Copenhagen Meeting of the Conference on the Human Dimension of CSCE [1990] 731
Economic Espionage Act of 1996 996
Endangered Species Act of 1973 1189
European Convention for the Protection of Human Rights and Fundamental Freedoms of November 4, 1950 719
Executive Order 12114 (Environmental Effects Abroad of Major Federal Actions) [Carter, 1979] 1192
Executive Order 12333 (United States Intelligence Activities As Amended by Executive Orders 13284 and 13355) [Reagan, 1981] 980
Executive Order 12656 (Assignment of Emergency Preparedness Responsibilities) [Reagan, 1988] 1083
Executive Order 12807 (Interdiction of Illegal Aliens, As Amended by Executive Order 13286) [Bush, 1992] 1170
Executive Order 12863 (President’s Foreign Intelligence Advisory Board, As Amended by Executive Orders 13070, 13301, 13376) [Clinton, 1993] 992
Executive Order 12938 (Proliferation of Weapons of Mass Destruction) [Clinton, 1994] 604
Executive Order 12949 (Foreign Intelligence Physical Searches As Amended by Executive Order 13383) [Clinton, 1995] 995
Executive Order 12968 (Employee Access to Classified Information) [Clinton, 1995] 934
ALPHABETICAL LIST OF DOCUMENTS

Executive Order 13292 (Classified National Security Information) [Bush, 2003] 947
Executive Order 13354 (National Counterterrorism Center) [Bush, 2004] 822
Executive Order 13356 (Strengthening the Sharing of Terrorism Information to Protect Americans) [Bush, 2004] 826
Executive Order 13381 (Eligibility for Access to Classified Information) [Bush, 2003] 956
Executive Order 13382 (Blocking Property of WMD Proliferators) [Bush, 2005] 611
Export Administration Act of 1979 1103
Final Warsaw Declaration: Toward a Community of Democracies [2000] 742
First Appropriations Act for Foreign Affairs [1790] 846
Foreign Assistance Act of 1961, As Amended 1055
Foreign Intelligence Surveillance Act [1978] 971
Formosa Resolution [1955] 873
Fulbright [Cooper-Church] Amendment [1973] 886
Geneva Convention for the Amelioration of the Condition of the Wounded and Sick in Armed Forces in the Field (First Geneva Convention) [1949] 206
Geneva Convention Relative to the Treatment of Prisoners of War (Third Geneva Convention) [1949] 214
Hague Convention IV Respecting the Laws and Customs of War on Land [1907] 193
Hague Convention IX Respecting Bombardment by Naval Forces in Time of War [1907] 200
Hague Convention V Respecting the Rights and Duties of Neutral Powers and Persons in Case of War on Land [1907] 198
Hague Convention XIII Concerning the Rights and Duties of Neutral Powers in Naval War [1907] 202
Homeland Security Act of 2002 813
House of Representatives Rule XLVIII, Permanent Select Committee on Intelligence [1977/1997] 967
Hughes-Ryan Amendment (Intelligence Oversight) [1991] 991
Hull, Canons of International Conduct [1937] 18
Immigration and Nationality Act [1952] 1151
Instructions for the Government of Armies of the United States in the Field (Lieber Code) [1863] 183
Intelligence Identities Protection Act of 1982 988
Intelligence Reform and Terrorism Prevention Act of 2004 1006
Inter-American Treaty of Reciprocal Assistance (Rio Treaty) [1948] 104
Interdiction of the Delivery of Offensive Weapons to Cuba Presidential Proclamation 3504, October 23, 1962 709
ALPHABETICAL LIST OF DOCUMENTS

Interim Agreement between the United States of America and the Union of Soviet Socialist Republics on Certain Measures with Respect to the Limitation of Strategic Offensive Arms (SALT I) [1972] 517

International Code of Conduct against Ballistic Missile Proliferation (The Hague Conference, Opening Statement) [2002] 617

International Code of Conduct against Ballistic Missile Proliferation (ICOC) [2002] 619


International Convention against the Taking of Hostages [1979] 354


International Convention for the Suppression of the Financing of Terrorism [1999] 382


Iraq Liberation Act of 1998 890

Joint Declaration on the New Strategic Relationship to the Treaty on Strategic Offensive Reductions (U.S.A. and Russian Federation) [2002] 565

Joint Resolution to Promote Peace and Stability in the Middle East [1957/1961] 874

Joint Statement by the United States of America and the Union of Soviet Socialist Republics on International Law Governing Innocent Passage [1989] 705

Joint U.S.-Soviet Statement, 24 November 1974 on Further Limitation of Strategic Offensive Arms 522

Kellogg-Briand Pact (Pact of Paris) [1928] 153

Kennan, The Long Telegram [1946] 19

Know Your Customer Guidance and Red Flag Indicators [1999] 1125

London Charter [1945] 287

Madison, Speech to the House of Representatives on the Jay Treaty, April 6, 1796 903

Marshall Plan [1947] 33

Memorandum of Disapproval for the Omnibus Export Amendments Act (George Bush) [1990] 597


Memorandum of Understanding between the United States of America and the Union of Soviet Socialist Republics Regarding the Establishment of a Direct Communications Link [1963] 627

Memorandum of Understanding on Notifications of Missile Launches [2000] 558

Missile Technology Control Regime [formed 1987] 595

Monroe Doctrine [1823] 9


National Aeronautics and Space Act of 1958 1203

National Commitments Resolution [1969] 878

National Environmental Policy Act of 1969 1175
xxx

ALPHABETICAL LIST OF DOCUMENTS

National Security Act Amendments of 1949 764
National Security Act of 1947 755
Naval Armament Limitation Treaty [1922] 405
Nixon, Statement on Executive Privilege, March 12, 1973, with Related Memorandum Establishing a Procedure to Govern Compliance with Congressional Demands for Information 904
NSC 68 (Soviet Union Nuclear Capabilities) [1950] 35
Nuclear Suppliers Group and Zangger Committee 589
Nuremberg Trials Final Report: Control Council Law No. 10 [1945] 294
OAS General Assembly Resolution 1080 (on Democracy) [1991] 667
Office of Export Administration Enforcement Regulations [1996] 1122
Posse Comitatus Act [1878] 791
Privacy Act of 1974 919
Proliferation Security Initiative (Weapons of Mass Destruction) [2004] 608
Protocol Additional to the Geneva Conventions of 12 August 1949, and Relating to the Protection of Victims of International Armed Conflicts (Protocol I) [1977] 242
Protocol Additional to the Geneva Conventions of 12 August 1949, and Relating to the Protection of Victims of Non-International Armed Conflicts (Protocol II) [1977] 262
Protocol for the Prohibition of the Use in War of Asphyxiating, Poisonous or Other Gases, and of Bacteriological Methods of Warfare [1925] 407
Providing Material Support or Resources to Designated Foreign Terrorist Organizations [2004] 830
Reagan, Address to Members of the British Parliament [1982] 71
Senate Resolution of Ratification of the INF Treaty [1988] 863
Senate Standing Order 79.13 (Senate Select Committee on Intelligence) [1976] 961
South Pacific Nuclear Weapons Free Zone Treaty [1985] 464
Southeast Asia Collective Defense Treaty (Manila Pact) [1954] 125
Southeast Asia Resolution (Gulf of Tonkin) [1964] 877
Soviet-United States Joint Statement on Non-Proliferation June 4, 1990 600
Stafford Disaster Relief and Emergency Assistance Act [2000] 1090
Standing Consultative Commission on Arms Limitation [1972] 632
Statement of the President on the UN Law of the Sea Convention [1983] 703
ALPHABETICAL LIST OF DOCUMENTS

Statute of the International Court of Justice [1945] 145
Statute of the International Criminal Tribunal for the Former Yugoslavia [2004] 329
Strategic and Critical Materials Stockpiling Act [1979] 1075
Tokyo Convention on Offences and Certain Other Acts Committed on Board Aircraft [1963] 337
Torture Victim Protection Act of 1991 740
Trading with the Enemy Act of 1917 (with Amendments) 1099
Treaty Banning Nuclear Weapon Tests in the Atmosphere, in Outer Space and under Water (PTBT) [1963] 410
Treaty between the United States and Other Powers for the Limitation and Reduction of Naval Armament [1930] 408
Treaty between the United States of America and the Russian Federation on Further Reduction and Limitation of Strategic Offensive Arms (START II) [1993] 551
Treaty between the United States of America and the Russian Federation on Strategic Offensive Reductions (SORT/Moscow Treaty) [2002] 563
Treaty between the United States of America and the Union of Soviet Socialist Republics on the Limitation of Strategic Offensive Arms (SALT II) [1979] 523
Treaty between the United States of America and the Union of Soviet Socialist Republics on the Reduction and Limitation of Strategic Offensive Arms (START I) [1991] 536
Treaty for the Prohibition of Nuclear Weapons in Latin America (Treaty of Tlatelolco) [1967] 455
Treaty of Versailles [1919] 79
Treaty on Conventional Armed Forces in Europe (CFE Treaty) [1990] 470
Treaty on Open Skies [1992] 497
Treaty on Principles Governing the Activities of States in the Exploration and Use of Outer Space, Including the Moon and Other Celestial Bodies [1967] 1205
Treaty on the Non-Proliferation of Nuclear Weapons 411
Truman, The Truman Doctrine, Special Message to the Congress on Greece and Turkey, March 12, 1947 29
U.S. and Soviet Comments on Definition of Aggression [1974] 167
U.S. Constitution Articles I, II, III, VI and Amendment XIV [1868] 841
U.S. Senate Advise and Consent of the Genocide Convention [1985] 724
xxxii ALPHABETICAL LIST OF DOCUMENTS

UN Security Council Resolution 678 (Iraq and Kuwait) [1990] 171
UN Security Council Resolution 687 (Iraq and Kuwait) [1991] 172
UN Security Council Resolution 731 (Libya) [1992] 374
UN Security Council Resolution 748 (Libya) [1992] 376
UN Security Council Resolution 780 (War Crimes in the Former Yugoslavia) [1992] 298
UN Security Council Resolution 827 (International Tribunal for the Former Yugoslavia) [1993] 299
UN Security Council Resolution 955 (International Tribunal for Rwanda) [1994] 301
UN Security Council Resolution 1315 (Sierra Leone Special Court) [2000] 326
UN Security Council Resolution 1373 (Suppressing Terrorism Financing) [2001] 385
UN Security Council Resolution 1390 (Taliban/Al-Qaida Assets) [2002] 388
UN Security Council Resolution 1441 (Iraq Noncompliance) [2002] 179
UN Security Council Resolution 1456 (Combating Terrorism) [2003] 390
UN Security Council Resolution 1526 (Freezing Taliban/Al-Qaida Assets) [2004] 392
UN Security Council Resolution 1540 (Weapons of Mass Destruction) [2004] 394
Uniting for Peace Resolution [1950] 96
Universal Declaration of Human Rights [1948] 713
USA PATRIOT Act [2001] 798
Vance, Human Rights and Foreign Policy [1977] 67
Vienna Document 1999 of the Negotiations on Confidence and Security-Building Measures 668
War Powers Resolution [1973] 879
Washington, Farewell Address [1796] 5
Washington, Message to the House Regarding Documents Relative to the Jay Treaty, March 30, 1796 901
Water Development Appropriations Act §507 [1992] 582
White House Fact Sheet: Adaptation of the Treaty on Conventional Armed Forces in Europe (CFE) [1999] 480
Wilson, “Fourteen Points” Speech [1918] 77