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Communications concerning Articles and Shorter Articles (not exceeding 4000 words, including footnotes) should be addressed to the Editor, Professor D. Ibbetson, Faculty of Law, University of Cambridge, 10 West Road, Cambridge CB3 9DZ (cj.EDITOR@LAW.CAM.AC.UK); and those concerning notes (not exceeding 1000 words) to Mrs. C. A. Hopkins, Girton College, Cambridge CB3 8JG (cj.NOTES@LAW.CAM.AC.UK).

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This year’s 21st Annual Scholarly Programs featured two events that brought leaders in the field together to discuss the legal bases for waging war in the 21st Century. The first event, the Scholars Forum, featured Professor Thomas M. Franck, who discussed his paper, Preemption, Prevention and Anticipatory Self-Defense: New Law Regarding Recourse to Force? Professor Diane Marie Amann, Professor David D. Caron, Professor Joel R. Paul and Judge Abraham D. Sofaer responded to Professor Franck’s paper and offered their own perspectives. Professor Naomi Roht-Arriaza served as the mediator. The second event, the Rudolph B. Schlesinger Memorial Lecture, featured Michael J. Glennon, who presented an analysis of unilateral U.S. force on multinational, multilateral institutions. This analysis included a discussion on structural flaws inherent in the U.N. Charter’s use of force rules.
PREEMPTION, PREVENTION AND ANTICIPATORY SELF-DEFENSE: NEW LAW REGARDING RECURS TO FORCE?
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On September 17, 2002, the National Security Strategy was published. This paper outlines the reach of the Strategy, focusing on the extent it creates new ground in asserting a right to use “preemptive” force. Traditional notions of anticipatory self-defense, found in the Caroline Doctrine, have been extended such that the Strategy allows the United States to respond with force to “rogue states before they are able to threaten” an attack. But, who has the right to determine whether a state may someday constitute a threat?

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Not only does the National Security Strategy rely on the use of force, but it also advocates other means of achieving security, such as diplomacy and alliances. In contrast to Professor Franck, this paper defends the approach the Bush Administration has taken with regards to the National Security Strategy. The text of the Strategy does not give the United States the power to use force whenever it feel that its superiority is threatened. The U.N. Charter also does not prohibit a state from using force to preserve the integrity of that state.

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The international legal system operates to minimize violence. This paper examines whether the Bush Doctrine violates or creates international law. If the Bush Doctrine is understood to mean that only the United States may use force preemptively, then it is not creating law; it is merely a unilateral assertion of power. If, on the other hand, all states may use the Bush Doctrine to act to prevent war, then violence is maximized. In order for the Bush Doctrine to be accepted as law, there must be a limiting principle.

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American policy makers and international lawyers sit in a parallel universe. Policy makers determine whether to use force in any given situation by examining the costs and benefits. International lawyers engage in legal analysis, which rarely plays a role in the policy makers' decisions. This paper examines three different elements of American foreign policy:
(1) the American foreign policy objectives, (2) the means by which those objectives are pursued, and (3) the way in which the United States should deal with a world in which the U.N. collective security system has collapsed.

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IS CAPITALISM UN-AMERICAN? AN ANALYSIS OF CORPORATE INVERSIONS AND EXPATRIATION PROPOSALS IN RESPONSE
By Eric Tak Han

Reincorporating companies have been called “Benedict Arnold corporations” by many U.S. politicians. However, reincorporation (corporate inversion) reduces a corporation’s costs, and therefore, maximizes its profits. This note discusses the tax benefits corporations receive if they reincorporate outside of the United States, and suggests that this reincorporation does not cause a loss of jobs; rather, the decision not to reincorporate may lead to a loss of jobs in the United States, because these domestic corporations cannot compete on the global market. This note looks at the U.S. tax system by comparing two corporations, Tyco International Inc., a company that did reincorporate, with Stanley Work, a company that decided against reincorporation. It also examines South Africa and the Netherlands as possible models for U.S. tax reform.

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The large volume of foreign-invested entities in China has created a need for reliable dispute resolution. Chinese law does not allow for foreign courts or foreign arbitration; as a result, foreign-invested entities must choose between the Chinese courts and the Chinese International Economic Arbitration Commission. However, many foreign parties are skeptical of the Chinese courts, and have chosen arbitration. This note suggests that not only may a satisfactory outcome for a foreign party be possible in the Chinese courts, but that
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By Jullie Pae

The growth of cross-border insolvencies has increased with the growth of international business activity. As courts of multiple jurisdictions are implicated, conflict-of-law problems surface. This note examines different theories which purport to overcome these conflict-of-law problems. This note also proposes that a modified universalism theory, as opposed to the dominant universalism theory, is the best solution to the problems which arise from the cross-border insolvencies.
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"Texas" reputedly comes from the Hasinai Indian word tejas, meaning friends, and it was a nowhere more evident than at IMLA’s 69th Annual Conference in San Antonio this October. Participants in this action-packed event enjoyed—besides a chance to catch up on the latest in the law—the truly outstanding hospitality of San Antonio. A fiesta, a charreada, the famed Texas beef, and a whole lot more mean we’ll remember the Alamo city!

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