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NATIONAL COMMISSION ON TERRORIST ATTACKS UPON THE UNITED STATES

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First public hearing of the National Commission on Terrorist Attacks Upon the United States

Statement of Abraham D. Sofaer to the National Commission on Terrorist Attacks Upon the United States March 31, 2003

It is a privilege to submit these comments to the Commission concerning the prevention of terrorist acts against the United States. This written submission is meant to supplement my relatively brief oral testimony.

My experience in the field of terrorism is based on my experiences as a federal prosecutor, federal judge, Legal Adviser to the Department of State, and scholar in the field of national security. I am presently serving as the George P. Shultz Distinguished Scholar and Senior Fellow at the Hoover Institution, Stanford University, where I am the Director of Hoover's National Security Forum. For the convenience of the Commission, I am attaching my resume to this submission. It contains references to the

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books and articles I have authored or edited that relate to terrorism, including modern aspects of the terrorist threat, and the means available for preventing terrorist attacks.

Those who were murdered on September 11, 2001 remain in our minds and hearts. We owe it to them to ask ourselves: What are the lessons of their terrible deaths? Have we made the changes to permit us to say they did not die in vain, as so many did before them?

The long process of introspection and analysis began immediately after the attacks, and is continuing. This Commission has been called upon to provide an objective, non-partisan evaluation, and to make recommendations. The Commission will find no shortage of ideas, presented both before and after the attacks, as to how America can defend itself most effectively. They will range from calls for better intelligence, to reorganizations of government agencies, the development of enhanced technologies, better diplomacy, and the need for accountability. These are all very important subjects, and I am certain the Commission will add significantly to the nation's understanding of its needs in these areas.

My submission, and my oral testimony, leaves those critical issues to others. I will focus instead on what has, since 9/11, become a matter of worldwide concern: the use of force to prevent terrorist acts from occurring.

It is now the strategic policy of the United States to use force preemptively to stop terrorists and their state supporters from attacking this country or its nationals, its facilities, and its allies. But this is a recent development. Until 9/11, the use of force to preempt attacks was not seriously discussed, let alone seriously undertaken. The model for fighting terror was based on the notion that terrorism is a crime, and that terrorists should be pursued as criminals. When President Clinton

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promised to "bring terrorists to justice" he meant that he would investigate them, try to capture them, and when that was possible he would see that they were tried, convicted, and sent to prison. Preventing terrorist attacks became a game in which national security experts, the FBI, prosecutors, and intelligence personnel attempted to learn where and when attacks were to occur before they actually happened, so they could do their best to prevent them, or to reduce their impact.

For many years prior to 9/11, I spoke out as forcefully as I could against this approach to fighting terrorism. My position was not something I invented. It evolved from experience serving one of America's greatest public servants, George P. Shultz, and his boss, President Ronald Reagan. Secretary Shultz responded to several attacks on the US by terrorists in Iran and Lebanon and elsewhere by proposing that the US should adopt a policy of "active defense" against terrorism. "Fighting terrorism will not be a clean or pleasant contest," he said, "but we have no choice. . . . We must reach a consensus in this country that our responses should go beyond passive defense to consider means of active prevention, preemption, and retaliation. Our goal must be to prevent and deter future terrorist attacks." Shortly after that speech, I joined the Administration and worked heavily on terrorism issues. We sought, among other things, to explain why international law gave pervasive support to terrorists, and thereafter to spell out a comprehensive legal program for fighting terrorism as a national security threat. By the end of the Reagan Administration, the Shultz Doctrine had been made national policy. We would use force against terrorists and states that supported them, even if their attacks on Americans occurred abroad, and even though no particular act was imminent. The US bombed Libya for its arranging attacks on Americans at the Rome and Vienna Airports in December 1986, and thereafter at a Berlin Discotheque.

Nothing stays the same in Washington, DC, however. After President Bush took over, policy changed. The bombing of Pan Am 103 was treated as a criminal matter, and eventually resolved after years of legal dispute and diplomatic maneuvering, resulting in the conviction of a single Libyan intelligence operative. We had plenty of legal victories in prior years, among which was an order from the International Court of Justice telling Iran to release the US diplomats it was holding. Just as Iran ignored that order, however, the use of legal action to deal with terrorism led to the belief that the US was unprepared to defend itself vigorously, and could therefore be attacked with relative impunity.

Our reaction to the attacks in Iran and Lebanon, and to the bombing of Pan Am 103, was the background against which Osama bin Laden fashioned his strategy. He became convinced we were cowards. He believed we could be forced to leave Muslim countries, and to abandon Israel, if he launched attacks that shed American blood.

Nothing that happened prior to September 11, 2001 gave bin Laden reason to doubt his assumption. Al Qaeda was responsible for no fewer than four, and as many as six, successful attacks on US targets prior to September 11, as well as some potentially devastating ones that failed for reasons having nothing to do with our ability to defend ourselves. Throughout this onslaught, we responded precisely as bin Laden anticipated.

- In early 1993, Al Qaeda operatives began training Somali fighters to attack UN forces, and in October they participated in attacks that killed 18 US Marines. We had boisterously arranged for the Security Council to issue a warrant to arrest the warlord, Mohammed Aideed. But after suffering these casualties, we withdrew

from Somalia.

- On February 26, 1993, a car bomb exploded in the parking lot under the World Trade Center, killing 8 people and injuring over a thousand. We traced and convicted most of the perpetrators, but left the organizations from which they came to continue to operate.
- One of the WTC bombers, Ramzi Yousef, who trained in Afghanistan, planned to blow up several planes. By sheer good fortune, he injured himself while making a bomb and was unable to follow through.
- On June 26, 1996, car bombs killed 19 American servicemen in Dhahran, Saudi Arabia, and injured over two hundred. The US suspected bin Laden and Al Qaeda. All we did, however, was open a criminal investigation that the Saudis did not allow the FBI to pursue on Saudi soil. Bin Laden was not intimidated by the thought of FBI investigators sitting in Saudi hotels. On October 12, he issued a "Declaration of War" against the US: "It is the duty now on every tribe in the Arabian peninsula to fight jihad and cleanse the land from these Crusader occupiers. Their wealth is booty to those who kill them."
- In November 1996, soon after bin Laden's declaration, bombings of American servicemen in Riyadh and at the Khobar Towers barracks killed 19 more and injured 109. Bin Laden called these attacks "praiseworthy terrorism," and promised more would follow. Once again we sent in the FBI.
- In February 1998, bin Laden put his war into the form of a religious order -- a fatwa -- declaring that "the killing of Americans and their civilian and military allies is a religious duty for each and every Muslim" He had no difficulty justifying the deaths of civilians. After all, he argued, the Judeo-Christians had dropped atom bombs on civilian populations, had stood by while Christian

- Serbs massacred and raped Muslims in Bosnia, had killed Muslims ruthlessly in Chechnya and other places, and had imposed sanctions on Iraq that even the UN said had killed 600,000 Iraqi children.
- On August 7, 1998, Al Qaeda terrorists car-bombed the US embassies in Kenya and Tanzania, killing 224 people and injuring almost 5000. The US launched a single strike of missiles on an Al Qaeda camp in Afghanistan, and on a pharmaceutical plant in Sudan, from several hundred miles away. When it came to legal action, though, we pulled out the stops. We eventually indicted bin Laden on 224 counts of murder. Characteristically, he failed to show up for his trial. We settled for successfully prosecuting four Al Qaeda operatives. The prosecutors nonetheless triumphantly declared that they would continue to investigate Al Qaeda until Osama and his cohorts were all "brought to justice," presumably in the federal courthouses of America. This so terrified Osama, that he told Time Magazine: "The US knows that I have attacked it, by the grace of God, for more than ten years now. . . . Hostility towards America is a religious duty and we hope to be rewarded for it by God. I am confident that Muslims will be able to end the legend of the so-called superpower that is America."
 - On October 12, 2000, a suicide boat bombing of the USS Cole in Aden harbor killed 17 American sailors and injured 40, in addition to causing over \$100 million in damages. We knew it was Al Qaeda's work, but the Clinton Administration did not bother to engage in even a symbolic use of force. Instead, it launched -- once again -- a massive invasion of aggressive FBI investigators, none of whom could speak Arabic. They were so aggressive, in fact, that they terrified the American Ambassador, who prohibited the lead

agent from returning to Yemen after he went home on vacation.

- At the turn of the millennium, we had some very good luck. An attack planned for the Los Angeles Airport was aborted when a perpetrator panicked on his way into the US from Canada.
- US officials certainly knew at this point that bin Laden would strike again. They worried intensively. Not about whether an attack was coming, but over where and when. It was painful for Americans to learn that, as the attacks began on September 11, the President's advisors were sitting around a table in the White House and knew immediately that the attack for which they were waiting had occurred.
- Given these events, it is small surprise that, after the attacks of September 11, bin Laden was triumphant. He was a hero. Muslims in several countries took to the streets, cheering the death and destruction inflicted on the Satanic US. More people, he said, were converting to Islam than ever before. And the extent of damages and casualties were, "Allah be praised," far greater than even he had hoped. His strategy had worked. The US had been too cowardly to stop him. His earlier words of defiance in responding to Secretary of Defense Perry's warning now seemed prescient:

Where was this courage of yours when the explosion in Beirut took place in 1983? . . . You were transformed into bits and pieces at that time; 241 soldiers were killed, most of them Marines. And where was this courage of yours when two explosions made you leave Aden in less than twenty-four hours! . . . You moved tens of thousands of international forces, including twenty-eight thousand American soldiers, into Somalia. However, when tens of your soldiers were killed in minor battles and one American pilot was dragged in the streets of

Mogadishu, you left the area in disappointment, humiliation, and defeat, your dead with you. . . . It was a pleasure to the heart of every Muslim and a remedy to the chests of believing nations to see you defeated in the three Islamic cities of Beirut, Aden, and Mogadishu.

We have heard many claims by former and present officials that attempt to explain why they could not have prevented the 9/11 attacks: that no one could have anticipated that terrorists would hijack planes and use them as bombs; that Al Qaeda was expected to attack overseas, not in the US; that the 9/11 attacks were of a different magnitude than anything earlier. The accumulating evidence undermines these claims and others that have been made. But these excuses are, in any event, beside the point as far as I am concerned. The fact is that, well before September 11, 2001, the intelligence community and the "Terrorism Czar" and everyone to whom they reported all knew that additional attacks by Al Qaeda were being planned and would certainly be attempted. Nonetheless, they failed to do before September 11 what was done immediately thereafter.

The dreadful sight of the Twin Towers' collapse, and the other horrors of that day, finally galvanized the nation into action. President Bush declared "war" on terrorism. He led an international coalition into Afghanistan that put an end to Al Qaeda's sanctuary there. The coalition drove the Taliban from power, and killed, seized, or scattered thousands of Al Qaeda members. The President adopted a set of principles to guide US policy: first, that serious terrorist attacks should be treated as acts of war, not merely as crimes; second, that states are responsible for terrorism emanating from within their borders; and third, that we must preempt attacks where possible, because of their potentially devastating consequences.

The President's principles are strategically necessary, morally sound, and legally

defensible. They reversed the self-defeating policies of the past. They have also generated enormous controversy. The danger is very real, in fact, that the nation may be tempted by the difficulty of implementing these policies to become lax once again, and thereby to make America once again vulnerable to catastrophic terrorist attack. Arguments are made, and priorities are established, that could refocus the nation's energies and reliance for defense on passive rather than active measures.

For the following reasons, this Commission should reject those arguments. It should confirm the need of the US -- in addition to using criminal law, diplomacy, intelligence, and technology in defending America -- to adopt active measures of defense where grave threats are present, state responsibility exists, and the need for the use of preemptive force is demonstrable, even if not imminent.

Terrorism as War. President Bush has repeated the promise "to bring terrorists to justice." But he means Texas justice. He is willing to try terrorists for their crimes, if they can be captured. If not, he has promised to try to hunt them down. The notion that criminal prosecution could bring a terrorist group like Al Qaeda to justice is absurd. Thousands of members of such groups could never be indicted, arrested, and prosecuted, let alone identified. The leaders would in any event remain outside the reach of legal process, able to continue their planning and attacks.

Using force against Al Qaeda materially diminished its capacities. Its training camps have been destroyed, though only after turning out some 20,000 graduates. Its headquarters, from which advice, instructions, and support used to flow, have been destroyed. Its leaders are on the run and being captured one by one. Afghanistan has been liberated from a tyrannical regime, and is now being governed by individuals chosen by Afghanis through an

internationally supervised process.

The victory of course remains incomplete. Bin Laden and other leaders are still alive and active. Thousands of Al Qaeda graduates are still operating in Afghanistan, Pakistan, and other countries. They are already responsible for several bombings: the US Consulate in Karachi, a market in Kabul, the ancient synagogue in Tunisia, and others likely to follow. They have killed several people, and almost killed President Hamid Kharzai last September. On the other hand, several countries have stepped up their efforts to destroy terrorist groups, sometimes with US assistance, and many states are more successfully investigating and capturing Al Qaeda operatives and other terrorists. On balance, we face a continuing threat from Al Qaeda, but a much lower one than we faced before we went into Afghanistan.

One controversial aspect of the war on terrorism is the intense activity underway on the domestic front. Congress has augmented Executive power to investigate, prosecute, and hold without trial, individuals suspected of terrorist activities. Power over aliens has been expanded. A Department of Homeland Security now exists, consisting of several agencies and offices, primarily responsible for securing the nation's borders and its critical infrastructure. The President and Congress want enhanced deployment of security technologies to increase the nation's ability to prevent and respond to terrorist attacks.

Some of the powers given by Congress to the Executive, and some of the new practices adopted by the President or the Attorney General, have been challenged as illegal or unfair. A few of these measures may in fact be unsound or illegal. But the President, Congress, and the Attorney General are trying to prevent as many terrorist incidents as possible, a perspective that stems from viewing terrorism as an aspect of our national security, and long

overdue.

State Responsibility. One of the most dramatic, and positive, developments attributable to the 9/11 attacks is the clear and detailed resolution of the UN Security Council authoritatively establishing the responsibilities of states with regard to terrorism and terrorists operating within their territories. President Bush sought and obtained, even before the attacks, Security Council resolutions demanding that the Taliban Government of Afghanistan stop Al Qaeda from engaging in terrorism, and ultimately that it prosecute or surrender Osama bin Laden. He warned the Taliban that, if they failed to comply with these resolutions, the US would treat them as responsible for Al Qaeda's attacks. The Security Council fully supported this position, and its historic Resolution 1373 (28 September 2001) prohibits all forms of state support for terror.

Resolution 1373, together with Resolution 1368 (12 September 2001) implicitly authorized military action against the Taliban Government to destroy Al Qaeda. The great challenge for the US government will be in enforcing the standards of Resolution 1373 in future situations. The US has publicly determined that seven states support terrorism: Cuba, Iraq, Iran, Libya, North Korea, Sudan, and Syria. President Bush has said that no state may remain on the sidelines in this fight. Yet, he also realizes that this problem is deeply rooted in years of inadequate policies that have left these and other states free to support groups and ideologies that preach hatred of America and western values. Two of our current allies in the war on terrorism -- Pakistan and Saudi Arabia -- are more than any other state responsible for the conditions that enabled Al Qaeda to develop. Each state represents a separate challenge, however, demanding its own strategy.

Despite the practical difficulties, the US is now in a position to press forward on an

antiterrorism strategy that has the imprimatur in principle of the international community. Even if these standards are imposed or adopted gradually, that will be a great improvement over the disdain with which many states treated their obligations until 9/11. Every improvement in the conduct of a particular state, whether accepted voluntarily or imposed, will likely lead other states to modify their practices to bring them into line with international standards. This is a development the Commission should fully support, and the importance of continued attention to the behavior of states in this regard warrants a firm and clear recommendation that the pressure for compliance by all regimes should be maintained.

Preemptive Defense. President Bush was deeply affected by the attacks of 9/11. He is determined not to allow another, even more serious attack on the US, if he can help it. This, I believe, as much as any other consideration, motivates his determination to remove the threat posed to the US by an Iraq under Saddam Hussein. The President fears that Saddam Hussein is bent on using weapons of mass destruction to advance illegal ambitions through threats or actual attacks. Had the US obtained clear Security Council approval to use force to disarm Iraq, no legal question would exist as to the President's authority to act against Iraq. As it is, a major dispute has arisen regarding the President's claim that the US may legally preempt this threat. In my view, as I have written, the US and its allies have ample legal authority to act against Saddam on the basis of Security Council resolutions. Even if this were not the case, however, many factors support the view that Iraq under Saddam does pose a sufficiently grave threat to peace and to the US in particular to justify military action. While the Commission need not pass upon this question, it should carefully consider the grave implications of a position that would preclude or excessively deter the US from acting in its self-defense merely because a real, terrible, and

certain threat was not also imminent. The Commission should reject any standard of law that would unreasonably restrict the legitimate exercise by a US President of his or her obligation to protect the US from such threats.

The need for preemptive, and sometimes for preventive, actions to defend the US stems ultimately from the conditions of modern life and the nature of radical terrorism. The US is a target-rich, vast, and open society. Our enemies have broad access to us, and many are already among us, some planning acts of violence. Modern technologies have placed within their grasp the means to inflict grave damage through both conventional and unconventional weapons, and to do so with the assistance of modern methods for traveling, communicating, transferring funds, training, and access to weapons and components. While the US has greater wealth and technological capacity than terrorist groups and their state sponsors, these advantages cannot be expected to provide security.

In every area of potential weaponry -- from the most mundane and conventional to the most sophisticated and unconventional -- the US is vulnerable. We are continuing, for example, the valuable effort of keeping weapons and explosives off civilian airliners. Metal detectors served an essential role, but they were insufficient to prevent hijackings in all cases. New types of detectors as well as sophisticated systems for identifying terrorists are going to play a similar role in enhancing airline security. But they, too, will prove insufficient to prevent all dangers; indeed, no known technologies exist for sensing some dangerous substances, and others are years from practical application. Furthermore, we cannot now protect our airports, and the areas around airports, from which weapons could be fired or launched at planes. Similarly, the nation's entire critical infrastructure is and will remain vulnerable to most types of attacks for many years to come.

While sensors and other relevant technologies are improving, they are not presently ready to be applied on a practical basis to many types of substances (especially biological), or to moving people or objects, or to screening that requires quick, open-air checks in order to avoid crippling costs on commerce and travel.

The area of intelligence is no less subject to this reality. Many improvements can and should be made to enhance capacities, and especially to improve the very complex task of predicting future attacks. It is illusory to believe, however, that intelligence -- even combined with all presently conceivable advances in technology -- will enable us to know in advance of all the attacks we will have to foil to achieve an adequate level of security, let alone the complete security we want to achieve. We will never be able to obtain and properly evaluate on a timely basis the information necessary to feel justified in relying exclusively on passive measure of defense. As Secretary of Defense Rumsfeld explained: "Defending the U.S. requires prevention, self-defense and sometimes preemption. It is not possible to defend against every conceivable kind of attack in every conceivable location at every minute of the day or night. Defending against terrorism and other emerging 21st century threats may well require that we take the war to the enemy. The best, and in some cases, the only defense is a good offense."

Preemption is a difficult concept in national security practice, and a sensitive issue in international law. International lawyers widely assert, in the characteristically flamboyant words of Secretary of State Daniel Webster, that preemption "should be confined to cases in which the necessity of that self defense is instant, overwhelming, and leaving no choice of means, and no moment for deliberation." By this standard, the US would have to wait until Al Qaeda or Iraq, for example, is on the verge of an actual attack, before attempting to prevent

it. This standard is not only impractical and artificial; Webster expressed it in a specific factual context, to which a relatively stringent standard for preemption can properly be applied. Webster claimed that the British had acted improperly by entering the US and sinking a supply vessel that was assisting rebels in attacks on British forces in Canada. He claimed that the US was both able and willing to prevent such attacks, and therefore that the British were required absent an imminent need to act to rely upon the US to enforce its police powers. The British disagreed with Webster's factual premise, and therefore claimed it had a right to use self-help, even though the situation was not as imminent as Webster claimed was necessary. Both Webster and his British interlocutors agreed that the standard generally applicable to uses of force was necessity, and that is the standard that should be applied to preemptive actions in cases where the potential victim state cannot be expected to rely upon the state from which an attack is anticipated to prevent the attack.

Under such an approach, necessity cannot properly be established through an arbitrary assertion that a threat exists requiring preemption in the view of the party being threatened. Nor is a state free to attack another merely because the latter develops the capacity to inflict even grave damage in a military encounter. Rather, necessity must be established on the basis of factors and circumstances related to establishing the legitimacy of using force under international law principles and UN Charter values, including: (1) the nature and magnitude of the threat involved; (2) the likelihood that the threat will be realized unless preemptive action is taken; (3) the availability and exhaustion of alternatives to using force; and (4) whether using preemptive force is consistent with the terms and purposes of the UN Charter and other applicable international agreements.

It is unquestionably correct that one state may not attack a second merely because it believes the second may at some future time attack it, even with weapons of mass destruction. Any such doctrine would purport to allow states to attempt to ensure their individual security, but by creating massive insecurity for others and ultimately for themselves.

Preemption, therefore, may or may not be legitimate, depending on the circumstances. Imminence is an important but not controlling factor. Each situation must be examined to determine the degree of danger involved, the need for the action, and its impact on UN Charter principles. Preemption, in short, as Professors McDougal and Feliciano years ago explained, is "subjected only to that most comprehensive and fundamental test of all law, reasonableness in particular context."

An overwhelming case existed for the use of preemptive force against Al Qaeda and the Taliban. The action was too long delayed. A strong case also exists for the use of preemptive force to replace Saddam Hussein. This Commission need not, however, judge the latter case. It is the principle that matters. No national security policy against terrorism, especially state sponsored terror, can be regarded as sound if it fails to include preemptive action as an essential part. At some point, it becomes clear that preemptive action is necessary in self-defense. When that time comes it is not only proper for the President of the US to act, it is essential. The Commission should make clear that the proper and adequate defense of the US requires no less.

The importance of preemption as a part of our national strategy should not be underestimated. I am not speaking here of a minor element of the overall plan the nation requires. The historical record indicates very strongly that most terrorist attacks on the US can be anticipated and prevented well before they

occur if the President uses preemption rather than attempts to anticipate exactly where and when each attack will take place. Most recent attacks on the US, all with horrendous consequences, were the product of a single organization, Al Qaeda, led by a man who announced his intentions to kill Americans in advance and who demonstrated his capacity to do so over and over again before he was stopped. We knew who was trying to kill Americans, where he was located, that he had the capacity to do grave damage, and that he meant what he said. Surely at least by the time we were able to indict bin Laden and Al Qaeda, it was also the time to capture or destroy him through the use of force, given the fact that the Taliban were protecting his activities. Had we done this obviously necessary, moral, and legally justifiable thing, the 9/11 attacks would not have occurred. Furthermore, I am confident -- and I hope the Commission will agree -- that if we fail once again to act in a similar situation to preempt attacks we know are being planned by such an enemy, we will once again suffer a disaster as great if not greater than 9/11.

It is true, of course, that any war carries risks, and the "war" on terrorism is no exception. But the risks of using force must always be weighed against the risk of inaction. The Commission should keep in mind the utterly helpless posture into which our national security personnel placed themselves (and the damage to which they exposed the nation) by failing to treat as a proper part of their authority -- and indeed of their responsibility -- the use of force against so well established and determined an enemy as Al Qaeda. The war on terror is not a popularity contest, in which we must somehow figure out why madmen hate us, and then adjust our behavior to gain their approval. Bin Laden, Sadaam Hussein, and others like them have made very clear why they hate us, and that their ambitions are wholly inconsistent with our interests and values.

The Administration is currently under a persistent barrage by scholars, analysts, and much of the media, against the use of force. The international relations literature is filled with arguments that efforts to defeat terrorism are futile, or too costly, or must deal with the causes of terrorism, or will ultimately fail because our aims are illegitimate. Had we followed these views, bin Laden would still be out there, in Taliban Afghanistan, planning to kill more Americans. It is true that the war on terror will never entirely succeed, will be costly, and will require more than just force to secure lasting victories. But without this effort we would surrender our future to the likes of bin Laden and Sadaam Hussein.

Ultimately, we owe the dead, the living, and the unborn a world of freedom and tolerance. When all else fails, we must fight to preserve and in due course to extend those values. Freedom and tolerance are not merely American ideals, or cultural options. They are enshrined in the UN Charter, freely subscribed to by all Member States. To allow their subordination to any ideology or religion, however deeply felt or believed, would undo the principles upon which the future of humanity rests.

Mr. Abraham D. Sofaer is currently a George P. Shultz Distinguished Scholar & Senior Fellow, at The Hoover Institution, Stanford University. He also is a Professor of Law, by Courtesy, at Stanford Law School.

From 1990 to 1994 he served as Legal Adviser at the U.S. Department of State. He served as United States District Judge, Southern District of New York, from 1979 to 1985. From 1969 to 1979 he was a Professor of Law, at Columbia University School of Law. He served as U.S. Attorney, Southern District of New York, from 1967 to 1969. From 1966 to 1967 he was a Law Clerk for the Hon. William J. Brennan, Jr., Assoc. Justice, U.S. Supreme Court. He also served as a law clerk for the Hon. J. Skelly Wright, Judge,

U.S. Court of Appeals, D.C. Circuit.

Mr. Sofaer attended New York University School of Law from 1962 to 1965. While there he was Editor-in-Chief NYU Law Review, an Outstanding Graduate, and a Root-Tilden Scholar. He earned his Bachelor of Arts at Yeshiva College, where he graduated magna cum laude.

From 1956 to 1959, Mr. Sofaer was an Airman 2nd Class, U.S. Air Force. He is a member of the following organizations: California Bar; District of Columbia Bar; New York Bar; U.S. Supreme Court; U.S. Court of Appeals for the D.C. Circuit; U.S. Court of Appeals for the Second Circuit; U.S. District Court, Southern District of New York; U.S. District Court, Eastern District of New York; U.S. Department of State Advisory Committee on International Law American Bar Association; American Law Institute; Association of the Bar of the City of New York; Council on Foreign Relations; American Arbitration Association; JAMS-ENDISPUTE.

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